

REQUEST FOR PROPOSAL



Department of Executive Services
Finance and Business Operations Division
Procurement and Contract Services Section
206-684-1681 TTY Relay: 711

Date Advertised: **May 11, 2006**

RFP Title: **Proposed Development-Lease-Leaseback for a Consolidated Elections Facility at Goat Hill**

Requesting Dept./ Div.: **King County Department of Executive Services – Facility Management Division**

RFP Number: **204-06RLD**

Due Date: **June 22, 2006 – no later than 2:00 P.M.**

Buyer: **Roy L. Dodman** roy.dodman@metrokc.gov, (206) 263-4266

Pre-Proposal Conference:

A conference to discuss questions related to this RFP shall be held at **10:30 a.m. on Monday, June 5, 2006**, in the Board Room on the 3rd Floor of the Exchange Building, 821 Second Avenue, Seattle, WA 98104.

Sealed Proposals are hereby solicited and will **ONLY** be received by

**King County Procurement Services Section
Exchange Building, 8th Floor
821 Second Avenue
Seattle, WA 98104-1598**

Office Hours - 8:00 a.m. - 5:00 p.m.
Monday - Friday

PROPOSERS MUST COMPLETE AND SIGN THE FORM BELOW (TYPE OR PRINT)

Company Name		
Address		City/State/Zip Code
Signature	Authorized Representative / Title	
E-mail	Phone	Fax

This Request for Proposal will be provided in alternative formats such as Braille, large print, audio cassette or computer disk for individuals with disabilities upon request.

If you received or downloaded this document in .pdf format, a MS Word copy may be obtained by contacting the buyer listed above. This MS Word document will be transmitted by e-mail.

Sealed proposals are hereby solicited and will be received only at the office of the King County Procurement Services Section at 821 Second Avenue, 8th Floor, Seattle, Washington, 98104 no later than 2 p.m. on the date noted above regarding a *Proposed Development-Lease-Leaseback for a Consolidated Elections Facility at Goat Hill* for the *King County Department of Executive Services, Facility Management Division*. These services shall be provided to King County in accordance with the following and the attached instructions, requirements, and specifications.

Submittal: King County requires the Proposal to sign and return *this entire Request for Proposal (RFP) document*. The Proposer shall provide *one unbound original* and *eight (8) copies* of the submittal response, data or attachments offered, for *nine (9) items* total. The original in both cases shall be noted or stamped "Original".

The original submittals required above shall be noted or stamped "Original".

Pre-Proposal Conference: A conference to discuss questions related to this RFP shall be held at 10:30 a.m. on Monday, June 5, 2006, in the Board Room on the 3rd Floor of the Exchange Building, 821 Second Avenue, Seattle, WA 98104. See link for driving Instructions. <http://www.metrokc.gov/procurement/contact/findus.aspx>

Questions: After the Pre-Proposal Conference, Proposers will be required to submit any further questions in writing prior to the close of business Thursday, June 8th in order for staff to prepare any response required to be answered by Addendum. Questions are best received and most quickly responded to when sent via e-mail directly to the following King County procurement personnel: *Primary* – Roy L. Dodman, Senior Buyer roy.dodman@metrokc.gov / *Secondary* – Cathy M. Betts, Buyer cathy.betts@metrokc.gov. Questions may also be sent via fax or mail to the address above.

SECTION I – GENERAL INFORMATION

- A. King County is an Equal Opportunity Employer and does not discriminate against individuals or firms because of their race, color, creed, marital status, religion, age, sex, national origin, sexual orientation, or the presence of any mental, physical or sensory handicap in an otherwise qualified handicapped person.
- B. All submitted proposals and evaluation materials become public information and may be reviewed by appointment by anyone requesting to do so *at the conclusion* of the evaluation, negotiation, and award process. This process is concluded when a signed contract is completed between King County and the selected Developer/Developer Team. Please note that if an interested party requests copies of submitted documents or evaluation materials, a standard King County copying charge per page must be received prior to processing the copies. King County *will not* make available photocopies of pre-printed brochures, catalogs, tear sheets or audio-visual materials that are submitted as support documents with qualification submittals. Those materials will be available for review at King County Procurement.
- C. No other distribution of proposals will be made by the Proposer prior to any public disclosure regarding the RFP, the submittal or any subsequent awards without written approval by King County. For this RFP all proposals received by King County shall remain valid for one hundred twenty (120) days from the date of proposal. All proposals received in response to this RFP will be retained.
- D. Proposals shall be prepared simply and economically, providing a straightforward and concise but complete and detailed description of the Proposer's abilities to meet the requirements of this RFP. Fancy bindings, colored displays and promotional materials are not desired. Emphasis shall be on completeness of content.
- E. King County reserves the right to reject any proposal deemed not responsive to its needs.
- F. In the event it becomes necessary to revise any part of this RFP, addenda shall be created and posted at the King County Procurement web site. Addenda will also be conveyed to those potential Proposers providing an accurate e-mail address. If desired, a hard copy of any addenda may be provided upon request.
- G. King County is not liable for any cost incurred by the Proposer prior to issuing the contract.
- H. King County reserves the right to reject any or all proposals received. This RFP is primarily designed to identify the Developer with the most advantageous proposal. Negotiations may be entered with the

highest-ranked proposer. Should King County fail to successfully enter into a contract with the highest-ranked proposer, then negotiations may be initiated with the next highest-ranked proposer, and so forth, until a successful contract is executed, or until the County elects to terminate the contracting process.

- I. The contents of the proposal submittal of the selected Proposer may be included in contractual obligations if a contract ensues from the complete procurement process.
- J. News releases pertaining to this RFP, the services and/or the project to which it relates, shall not be made without prior approval by, and then only in coordination with, the King County Department of Executive Services – Facilities Management Division.
- K. King County Code 4.16.025 prohibits the acceptance of any bid, proposal or submittal after the time and date specified on the Request for Proposals. There shall be no exceptions to this requirement.
- L. King County agencies' staffs are prohibited from speaking with potential Proposers about the project during the solicitation.

Please direct all questions to:

Roy L. Dodman / Senior Buyer
(206) 263-4266
roy.dodman@metrokc.gov

or Cathy M. Betts / Buyer
(206) 263-4267
cathy.betts@metrokc.gov

NOTE: Documents and other information is available in alternate formats for individuals with disabilities upon advance request by calling Mary Lou Allwine at 206-296-4210 or TTY711.

- M. Protest Procedure - King County has a process in place for receiving protests based upon either bids, proposals, submittals, or contract awards. If you would like to receive or review a copy, please contact the Buyer named on the front page of this document or call Procurement Services at 206-684-1681.
- N. Electronic Commerce and Correspondence. King County is committed to reducing costs and facilitating quicker communication to the community by using electronic means to convey information. As such, most Invitations to Bid, Requests for Proposal, and Requests for Qualifications, as well as related exhibits, appendices, and issued addenda can be found on the King County Internet Web Site, located at <http://www.metrokc.gov/procurement/default.aspx>. Please refer to the "RFPs, RFQs & ITBs / New / Goods and Services" portion of the site (note: some documents or portions thereof may not be posted on the site. Please note any special messages regarding a particular solicitation). This information is posted at the Web Site as a *convenience* to the public, and is not intended to replace the King County process of formally requesting bid documents and providing the County with contact information for the potential Proposer. Each Proposer bears the responsibility to confirm the completeness and accuracy of all documents pertaining to a given solicitation, including the receipt of all issued addenda.

If a Proposer downloads a document from the Web Site and does not contact the Procurement Office to obtain a hard copy, the Proposer *must* register with the County via the Procurement website. To register, access "Contact Us" on the left side of the screen, then "Vendor Registration". At this point you will be submit complete information regarding your company and primary contact, as well as additional information you feel is relevant. Please note which document/documents were downloaded.

After proposals have been opened in public, the County will post a listing of the consultants submitting qualifications at the King County Internet site. Please refer to the "RFPs, RFQs & ITBs / Awarded / Goods and Services" portion of the site for a listing, as well as a notification of a final determination.

Unless otherwise requested, letters and other transmittals pertaining to this RFP will be issued to the e-mail address noted in our files, and after submittal, noted on the first page of this document. If other personnel should be contacted via e-mail in the evaluation of this submittal, or to be notified of evaluation results, please complete the information in the table below.

Contact Name	Title	Phone	E-mail address

- O. Washington State Public Disclosure Act (RCW 42.17) requires public agencies in Washington to promptly make public records available for inspection and copying unless they fall within the specified exemptions contained in the Act, or are otherwise privileged. During the bidding, evaluation and award process, King County will not release proposals submitted under this RFP to the extent permitted under the Public Disclosure Act. Subject to Section P below, proposals submitted under this RFP will be available for inspection and copying by the public at the conclusion of the evaluation, negotiation and award process.
- P. Proposals submitted under this RFP shall be considered public documents and with limited exceptions qualification submittals that are recommended for contract award will be available for inspection and copying by the public. King County may request an electronic copy of your proposal response at a later time for this purpose. This copy may be requested in MS Word format, and delivered either by e-mail or directly delivered on CD.

If a Proposer considers any portion of his/her proposal to be protected under the law, the Proposer shall clearly identify on the page(s) affected such words as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." The Proposer shall also use the descriptions above in the following table to identify the effected page number(s) and location(s) of any material to be considered as confidential (attach additional sheets as necessary). If a request is made for disclosure of such portion, the County will determine whether the material should be made available under the law. If the material is not exempt from public disclosure law, the County will notify the Proposer of the request and allow the Proposer ten (10) days to take whatever action it deems necessary to protect its interests. If the Proposer fails or neglects to take such action within said period, the County will release the portion of the proposal deemed subject to disclosure. By submitting qualifications, the Proposer assents to the procedure outlined in this paragraph and shall have no claim against the County on account of actions taken under such procedure.

Type of exemption	Beginning Page / Location	Ending Page / Location

- U. Proposers are urged to use recycled/recyclable products and both sides of paper for printed and photocopied materials, whenever practicable, in preparing responses to this RFP.
- V. During the solicitation process, King County strongly discourages the transmittal of Company information, brochures, and other promotional materials, other than address, contact and e-mail information, prior to the due date of proposals. Any pre-packaged material received by a potential proposer prior to the receipt of proposals shall not be reviewed by the County.
- W. Bid Identification Label: Please see the Bid Identification Label on the last page of this document.

SECTION II – PROJECT SPECIFICATIONS AND SCOPE OF WORK.

PART A - Introduction

Through the issuance of this Request for Proposal (RFP) the Department of Executive Services, Facilities Management Division, King County is soliciting Proposals from qualified commercial real estate developers and development teams to plan, develop, design, and construct a build-to-suit, lease-to own Consolidated Elections Facility.

This RFP is issued in accordance with RCW 36.34.205 and KCC 4.56.160 (E). This RFP invites submission of Proposals to King County. The criteria by which King County will evaluate the Proposals are set forth below in Section 'F' – Proposal Submission and Evaluation.

King County reserves the right to: reject any or all Proposals; to waive insubstantial or immaterial informalities in the Proposals; to request modifications during negotiations; and to accept the Proposal that, in its judgment, best serves the interests of and is most advantageous to King County.

PART B - Project Background

The Department of Executive Services has a division identified as the Records, Elections and Licensing Services Division. Over the past two years, County elections operations have been reviewed extensively. The County has also engaged an independent audit done by elections experts. A common theme among the reports is the recommendation for consolidation of elections ballot operations into a single facility.

King County Council Motion 12099, approved April 4, 2005, requested that the executive provide a space plan for the consolidation of elections operations into a single facility. Moreover, the motion also requested an evaluation of the needs for elections operations and an analysis of the functional areas of elections, personnel and equipment needs. This has been done.

The County is currently searching for building ownership opportunities which will allow consolidation of its employees and operations.

Potential submitters under this RFP should note that King County is currently searching for building ownership opportunities resulting in King County ownership of a Consolidated Elections Facility under one of three scenarios. The three scenarios are:

1. Ownership as a result of acquiring an existing building not currently held or owned by King County;
2. Ownership as a result of a build-to-suit, lease-to-own development on property not currently held or owned by King County; and/or,
3. Ownership as a result of a build-to-suit, lease-to-own development on the County owned property at Goat Hill.

King County is conducting a search for acquisition and development opportunities through a separate Solicitation For Offer (SFO) regarding items 1 and 2 immediately above.

This RFP relates to the item 3 component, immediately above. It is intended that the coordinated efforts of the County with regard to items 1, 2, & 3 above will result in a short list of opportunities ultimately considered for final selection.

PART C - Summary Project Description

The Department of Executive Services, Facilities Management Division, King County is soliciting Proposals to plan, develop, design, and construct a build-to-suit, lease-to own Consolidated Elections Facility (the "Project"). The County is seeking to have this Project constructed on County owned property immediately south of its newly constructed parking garage – said property known as Goat Hill. See [Exhibit A](#).

The County has prepared a preliminary program that identifies a building containing approximately:

- + / - 66,000 rentable square feet of open office space to accommodate administration and mail ballot processing functions;

- + / - 17,000 rentable square feet of open warehouse space to accommodate a county-wide vote-by-mail election, including storage and staging of election equipment;

Moreover, the County **expects** to achieve:

- An efficient layout for the planned County functions, including layout for ballot processing similar to light manufacturing / distribution / fulfillment services;
- A process engineered design and implementation incorporating both human and automatic systems for a consolidated elections facility, including design, development, installation, integration, testing and activation.
- Tenant improvements in accordance with County requirements;
- Parking sufficient to meet code requirements. Note that on-site parking capacity may be used in combination with King County's recently completed Goat Hill Parking Garage such that both on-going and peak parking requirements of this Consolidated Elections Facility can be met;
- LEEDs Silver Certification;
- King County would **like** to achieve occupancy as quickly as reasonably possible.

A preliminary program approach is attached as [Exhibit B](#).

The County will collaborate with the selected Developer / Development Team to examine and scrutinize the program assumptions. Moreover, the selected development team will be encouraged to make recommendations that will result in a **best value delivery approach**, in terms of designing and implementing work space throughout the Project.

In light of achieving a "best value" result, Developers responding to this RFP are requested not only examine and propose on the minimal above stated office and warehouse / distribution space, but also identify how to maximize the total build-out potential of the site in terms of current land use and zoning restrictions. By way of example only, could the site support a Project with and additional 50,000 square feet of office space? 100,000 square feet? What would be the marginal costs? Etc.

This Project will be highly visible. King County expects that the Project will be highly functional, efficient, safe and secure; will incorporate quality systems and materials; will be energy efficient with low operating and maintenance costs; will be highly distinctive in its urban design and architecture; and will offer excellent economic value. Development of the Project shall be subject to commercial Prevailing Wage and other requirements of state and local law as applicable.

PART D - Lease / Leaseback Authorized by RCW 36.34.205

As authorized by RCW 36.34.205, the County can have an office building built for County use on County-owned sites by means of a lease-leaseback transaction under RCW 35.42.070-.090. This statute says that the leaseback to the County "Shall contain terms as agreed upon between the parties," but sets forth four required provisions:

1. No part of the cost of construction of the building shall ever be or become an obligation of the County;
2. The County shall have a prior right to occupy any or all of the building upon payment of rental as agreed upon by the parties, which rental shall not exceed prevailing rates for comparable space;
3. During the time that all of any portion of the building is not required for occupancy by the County, the lessee of the land may rent the unneeded portion to suitable tenants approved by the County; and,
4. Upon the expiration of the lease, all buildings and improvements on the land shall become the property of the County

RCW 36.34.070(1)-(4). The King County Code contains similar lease-leaseback requirements at KCC 4.56.160(E).

In addition to the foregoing, the lease-leaseback statute requires that the lease arrangement be made “pursuant to a call for bids upon terms most advantageous to the (County).” RCW 35.42.080. Because this statutory language does not require that the lease arrangement be made with the lowest responsible bidder, it expressly differs in this respect from the conventional public bid process.

PART E - The Non-Profit RFP

By way of a future RFP, King County may be soliciting the services of a non-profit entity that will help expedite this transaction. Such a non-profit may, with appropriate County approval, issue its own tax-exempt bonds under the provisions of Revenue Ruling 63-20 of the IRS. Such 63-20 bonds are secured by the County’s lease of the Project from the Lessor. Under such circumstances, the top ranked Developer / Development Team selected pursuant to this RFP will be required to work closely with the representatives of the selected non-profit in negotiating the development agreement and crafting final documentation.

PART F - Proposal Submission & Evaluation

This section provides information necessary to understand the selection process. Each Developer / Development Team shall submit one (1) unbound original Proposal (marked as such) and eight (8) copies. Copies shall be comb-bound. At the County’s sole discretion, the Selection Committee reserves the right to request additional information.

Each Proposal will be evaluated by a selection committee (“RFP Selection Committee”) comprised of King County staff and consultants. Developer / Development Teams may be requested to interview and make oral presentations to the RFP Selection Committee as part of the selection process. Proposals will be ranked. The RFP Selection Committee will select the highest ranked Proposal based on the rankings. King County reserves the right to reject any and/or all Proposals.

There are a possible 1,250 points as follows:

1. Team Qualifications and Individual Commitments – 300 points

As you answer subsections a. through e. under this section, note that the overall objective is a commitment to use particular individuals and to describe how the team will work together to deliver the Project. As you approach those subsections below, structure your response to identify:

- The composition of the development team, by firm;
 - The specific, individual members assigned to this project, by firm;
 - Each individual team member’s role;
 - An organization chart;
 - Identify a reasonable development schedule; identify the commitment of each individual team member (% of their time for each month) that will be devoted to this project during the pre-development and development periods;
- a. Experience (100 points):** Specialized experience and technical competence of the Developer / Development Team and its personnel, considering the types of development problems that may be encountered and the potential complexity of this Project. Identify recent experience and expertise with development projects of a comparable type, including:
- Experience in development, construction and management of office / warehouse / distribution / fulfillment projects;
 - Parking garages;
 - Mid rise office structure(s)
 - Experience with restricted urban sites where operations of existing business must be maintained;
 - Experience with the City of Seattle DCFM, Public Works, Fire Dept., etc.;

- Experience in build-to-suit projects, helping to achieve (and supplement) the programmatic criteria of the client.

In no more than two pages of narrative in conjunction with a one page organization chart, describe the Developer / Development Team organization and responsible parties. Identify key staff assigned to the Project, including name, title, and Project responsibilities. Identify individuals and the firm they represent who will provide expertise for the items identified below.

- Project management
- Efficient, process engineered layout for the elections functions, including layout for ballot processing similar to light manufacturing / distribution / fulfillment services;
- Process engineering approach incorporating both human and automatic systems for a consolidated elections facility, including design, development, installation, integration, testing and activation.
- Engineering (geo-technical, civil, structural, mechanical, electrical)
- Architectural design and efficiencies, including parking garage
- Landscape design
- Construction management
- General contracting

For each individual identified above, provide a resume not to exceed one page describing their relevant expertise and past project experience.

Include applicable licensing information, if appropriate, for a given expertise. Include Washington State Tax Registration Number for each member of the proposed development team. If a Development Team member is a corporation, provide corporate information including date of incorporation, state in which incorporated and the incorporation number. If the Developer or Development Team is to be a newly formed LLC, corporation, partnership or joint venture, please describe in appropriate detail the constituent members that will comprise the newly formed entity.

b. Past Performance (100 points):

Describe not less than 2 nor more than 4 projects that are comparable in scope to this Project performed by key personnel and proposed development team members. Use no more than one (1) page for each project to describe and show pictures, illustrations, etc.

Describe the record of past performance of the Developer / Development Team with King County, other government agencies or public bodies, and private industry. Include such factors as cost control, quality of work, safety, ability to meet schedules, value engineering, cooperation, responsiveness, satisfying time and budget requirements, and other managerial considerations.

Note past record working together as a team effectively on other development projects or on projects of similar scope and complexity. In no more than two (2) pages, comment on how performance on previous projects and contracts qualifies Developer / Development Team to develop this Project. Please include reference to relevant project examples and resumes. Include narrative and references to demonstrate performance on budgets, schedules, cooperation and responsiveness. Submit a matrix, not to exceed two (2) pages, indicating other projects on which the proposed design, construction, and management team members have worked together. Submit the Developer / Development Team's general contractor's accident record for the last five (5) years, and if appropriate, any accident prevention program.

For a period inclusive of the most recent ten (10) years, attach a list identifying instances of commercial disputes that have resulted in arbitration or litigation in the State of Washington. If the dispute has been arbitrated, identify the cause of action, the arbitrator that handled the case (including address and telephone number), and the resolution. For disputes that have proceeded to litigation, identify each instance that (1) a lawsuit has been filed, (2) the court of jurisdiction, (3) the cause of action, (4) the

filing number, and (5) the resolution, including settlements, compromises, and judgments. This information shall include instances where the Developer / Development Team was plaintiff or defendant. For each development team, this information shall be required for the Developer / Development Team, the contractor, and the architect, including predecessors in interest and affiliated legal entities formed for purposes of real estate development.

- c. Design Process and Philosophy (50 points):** Problem identification and proposed method to accomplish the work; ability to identify and solve issues related to ease of use, complementary relationships, density, neighborhood and traffic issues; appreciation of design potential to minimize cost and construction impacts; demonstrated capability to explore and develop innovative or advanced techniques and design.

In no more than two (2) pages, describe the Developer / Development Team's design process including problem identification and proposed method to accomplish all work required: including, where appropriate,

- Demonstrated capability to explore and develop innovative or advanced techniques appropriate to this Project;
- Appreciation of design potential to minimize cost and construction impacts.

- d. Capacity to Perform the Work (50 points):** Describe the Developer / Development Team's capacity to perform the work within reasonable time and budget limitations, considering the team's current and planned workload. In no more than one (1) page, describe how the Developer / Development Team proposes to provide timely submittal and quality services considering the current and planned work load of team members. Describe the Developer / Development Team's ability to provide the technical disciplines and services required to cover the work required by the Project.

2. Description of a Proposed Development Plan – 300 points

Describe a proposed approach to the Project in light of the Preliminary Program (attached as Exhibit "B"), including discussion of key elements of the management plan, quality assurance plan and cost control measures.

- Describe a methodology for assessing, defining and negotiating the scope;
- Describe how the Developer / Development Team intends to collaborate with County officials and project manager in the programming, pre-development and construction phases of the Project;
- Describe the Developer / Development Team's quality control plan and methodology as it relates to problem identification, work scheduling, cost controls, construction impacts, reporting and implementation of the Project;
- Discuss the Developer / Development Team's ability to provide responsive coordination to the County, other consultant/contractors, and other involved agencies;
- Description of required entitlement and permits;

In addition to above narrative, include the following:

- Identify potential to increase and/or maximize the total build-out potential of the site in terms of current land use and zoning restrictions. Include projected marginal cost increases as a result of increased and/or maximum build-out.
- Conceptual design, blocking diagrams and sketches, including generalized floor layouts; discuss issues related to efficiency and ease of use;
- Development schedule, including construction schedule;

Conceptual design, blocking diagrams and sketches, including generalized floor layouts are not intended to create a beauty contest. In fact, it is intended to eliminate the “beauty contest” and emphasize conceptual intelligence in the way that the site and layout plan might be handled. Design flexibility may be helpful in terms of garage integration. The RFP Selection Committee will be looking for relatively simple diagrams of the uses in relation to the site.

King County is looking for a proposal that will result in the best value. The submission should focus on how the Developer / Development Team’s development plan will create value for King County, now and in the future. Examples of how that value may be created include, but are not limited to: value created as a result of design and flexibility of the facility; value created as a result of creative parking strategies; value created as a result of particular construction techniques; value created as a result of effective quality control measures; value created by speed of the development and construction process; etc., etc. Where possible, identify how the value enhancement may have a direct impact on the Project budget.

3. **The Development Agreement – 200 points**

Attached is a hard copy and Microsoft Word digital copy of a Form Development Agreement with terms and conditions that are anticipated to be incorporated in the final development contract. Please review thoroughly. Take particular note of the Developer’s scope of work, Developer’s responsibilities, and Developer’s risk assumptions.

A Developer / Development Team must affirmatively state its willingness to enter into such an agreement. Such an affirmative statement will achieve 200 points. As an alternative, if a Developer / Development Team takes exception to a certain term or terms, then the Developer / Development Team must specifically identify the language objected to, must propose alternative language, and must affirmatively state its willingness to enter into the proposed agreement as modified. Points will be deducted for alternative terms.

Submit your affirmative statement. A failure to affirmatively state a willingness to enter into such an agreement may cause the Developer / Development Team to be rejected as non-responsive.

Use the unaltered Form Development Agreement as background against which to prepare an estimated budget.

4. **RFP Worksheet Estimated Budget – 200 points**

As part of this RFP, an Excel spreadsheet file **Exhibit D – “RFP Worksheet Development Budget-Consolidated Elections Facility”** is available at the Procurement website (http://www.metrokc.gov/procurement/rfpdocs/2006/MayConsultants/204-06/204-06_ExhibitD.xls) and by contacting the Buyer listed on page 1 of this document. This RFP Worksheet Estimated Budget is to be completed by each Developer / Development Team. The Line Item Categories identified in Column A, Rows 1-70 cannot be changed. Use these Line Item Categories.

King County has identified certain financial assumptions in the spreadsheet that cannot be modified. Cells in the color FUCHSIA (4A, 34B, 36B, 43B, 45B, & 65B) identify estimated “order of magnitude” budget assumptions about the Project which Developer / Development Teams shall use to complete the remainder of the Budget.

The scope and financial assumptions made in this Budget are approximations only. Examples include: it is possible that cell 4A rentable square foot size assumption of 90,000 rentable square feet (BOMA) could vary as much as 10% less or 30% greater; it may be that Estimated Shell & Core Construction Costs cells 34B and 36B could vary significantly; it is possible that Estimated Tenant Improvement Construction Costs cells 43B and 45B could also vary significantly.

For purposes of this exercise, changes in scope within these parameters make no difference and will not effect the guaranteed maximum price figures that each Developer / Development Team will submit in Column D – GMP Line Item Categories Guaranteed By Developer.

- In Column B, for each cell where there is a blank "\$0" in BLACK, identify the Estimated Cost. Developer / Development Teams will note that filling in cell 6B generates a GMP figure in cell 6D. Developer / Development Teams will note that the sum of cells 9B – 16B generates a GMP figure in cell 17D. Developer / Development Teams will note that the sum of cells 20B – 28B generates a GMP figure in cell 29D. And, Developer / Development Teams will note that the sum of cells 49B – 55B generates a GMP figure in cell 56D.
- In Column D, in every cell (6, 17, 29, 32, 33, 35, 40, 41, 42, 44, 56, 58, 60 & 62) where there is a blank "\$0" (RED), identify the GMP Line Item figure that is Guaranteed By Developer . The GMP figures in each above identified cell of Column D are fixed prices that Developer is guaranteeing as part of its proposal. Each GMP figure submitted pursuant to this RFP is warranted notwithstanding potential scope changes within the parameters identified above. It is the responsibility of the Developer to assure itself that each team member can and will deliver its services for the prices identified in the submitted Budget. ALL BUDGET RFP POINTS HEREIN ARE BASED UPON THE GMP FIGURES IDENTIFIED BY THE DEVELOPER / DEVELOPMENT TEAMS IN THIS COLUMN D.
- Column F determines by pre-set formula what the Estimated Total will be on Row 70 by summing all rows where there is a blank "\$0" (GREEN) – this is informational only to help identify estimated total costs.
- Column G determines by pre-set formula the percentage of Total Development Costs (PERIWINKLE) – this is informational only to see the estimated percentage of each line item category; and,
- Column H determines by pre-set formula where there is a blank "\$0", the Estimated Price Per Square Foot (TEAL) – this is informational only to see the estimated price per square foot for each line item category.

By way of example only, a budget has been completed on the digital Excel spreadsheet if one looks to the bottom tab titled, "Example Only." By examining the "Example Only" spreadsheet on the computer, one can ascertain the formulas and the logic of what is expected.

Please submit your completed RFP Estimated Worksheet Budget in both hard copy (color print) and digital format (floppy disc). Identify the developer on spreadsheet header and on the floppy disc as "Fill in Developer's Name Estimated Worksheet Budget".

5. Interview – 250 points (Optional)

The County may choose to interview selected Developer / Development Teams, and the interview may add up to 250 additional points. The interviews will be conducted by the Selection Committee.

6. Financial Guarantees – Pass / Fail

As indicated in the Form Development Agreement, all development risk will be assumed by the Developer / Development Team selected pursuant to this RFP. For example, in the event that the guaranteed maximum price (Fixed Price) of the Project is exceeded (see, Section 2(a) Form Development Agreement), or the project budget becomes "out of balance" (see, Section 9(g) Form Development Agreement), the developer will be required to pay money into the Project in order to achieve substantial completion and meet its contractual responsibilities under the development agreement.

Please submit financial information that will identify the liquid financial resources readily available to meet those contractual responsibilities. Identify how King County will be assured that those financial resources will be in place during development and construction of the project. Identify a strategy or method of

collateralization that the developer will put into place, e.g., unconditional letter of credit, personal guarantee of principals, etc. Provide financial statements including: balance sheet, income statement, and working capital for 2003 / 2004 / 2005.

Developer / Development Team's general contractor(s) will be required to have a bonding capacity to obtain a performance and payment bond. Include a letter from the contractor's bonding company identifying the general contractor's ability to obtain a bond sufficient for this contemplated project. Developer must establish that it has the ability to meet minimum general liability insurance levels. Developer must provide a letter from its insurance broker or agent confirming commitment to insure Developer if chosen as the top rated Developer / Development Team.

PART G - Proposal Preparation & Submittal Format

The procurement of these services will be in accordance with King County and other applicable federal, state and local laws, regulations and procedures. All facts and opinions stated within this RFP, and all supporting documents and data are based on information available from a variety of sources. Additional information may be made available at the Pre-Proposal Conference and via written addenda throughout the process. No representation or warranty is made with respect thereto.

In your Proposal, please enclose a cover letter no longer than 2 pages with an outline of the Proposal. The Proposals shall include the following:

- Team Qualifications of Individual Commitments – 14 page maximum, including organization chart (resumes not included in 10 page limitation);
- Description of a Proposed Development Plan – 14 pages maximum, including no more than 2 pages for the schedule and no more than 6 pages for conceptual design, blocking diagrams, sketches, generalized floor layouts;
- Response to The Development Agreement – 3 pages maximum;
- RFP Worksheet Estimated Budget – 1 page + 1 floppy disc with digital file;
- Financial Guarantees – Narrative shall be no more than two pages; financial statements shall be easily readable.

Proposals shall be submitted as set forth in this RFP. Proposals that fail to be submitted in accordance with the procedures and specified requirements herein may be considered "non-responsive" and will or may be subject to rejection by the County. All costs incurred in the preparation of its Proposal shall be borne by the proposing Developer / Development Teams. The County shall not reimburse Proposers for such costs.

PART H - Schedule

There will be a pre-proposal conference to discuss the Project and what needs to be submitted on Monday, June 5, 2006. The pre-proposal conference will be from 10:30 a.m. to 12:00 noon at the King County Administration Building, 8th Floor Conference Room on the east wing of the building, 500 – 4th Avenue, Seattle, WA 98104.

Developers shall submit their responses by 2:00 p.m., June 22, 2006

Developer interviews, if any, will be announced. The Developer / Development Teams will be notified of their ranking and identification of the Selected Developer as soon as possible after any interviews have taken place.

PART I – King County Background Documents

- King County Council Motion 12099 PDF file (16KB) available at http://www.metrokc.gov/procurement/rfpdocs/2006/May/Consultants/204-06/204-06_Ordinance_12099.pdf

- King County Ordinance 15246 PDF file (26KB) available at
http://www.metrokc.gov/procurement/rfpdocs/2006/May/Consultants/204-06/204-06_Ordinance_15246.pdf
- 2004 Elections Report to King County Executive Ron Sims, February, 2005
<http://www.metrokc.gov/elections/ElectionsReport.htm>
- Independent Management Audit, October 3, 2005
http://www.metrokc.gov/elections/news/2005_12_30_ElectionCenterReport_Dec2005.pdf
- King County Elections Moving To Vote By Mail, Dated January 31, 2006
<http://www.metrokc.gov/elections/votebymail.pdf>

Note: the following sections pertain to standard King County contractual requirements. While it is not anticipated that the selected Proposer will enter into a contract directly with King County, if such a contract becomes necessary Proposers should be aware of the following sections, which highlight the usual language that is contained in any County contract or agreement. Final terms and conditions will be effected in any contract document the County negotiates.

SECTION III - NONDISCRIMINATION AND AFFIRMATIVE ACTION

PART 1: NON-DISCRIMINATION

- A. King County Code Chapters 12.16, 12.17 and 12.18 are incorporated by reference as if fully set forth herein and such requirements apply to this Contract; provided however, that no specific levels of utilization of minorities and women in the workforce of the Contractor shall be required, and the Contractor is not required to grant any preferential treatment on the basis of race, sex, color, ethnicity or national origin in its employment practices; and provided further that, notwithstanding the foregoing, any affirmative action requirements set forth in any federal regulations, statutes or rules included or referenced in the contract documents shall continue to apply.
- B. During the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall discriminate nor tolerate harassment on the basis of race, color, sex, religion, nationality, creed, marital status, sexual orientation, age, or the presence of any sensory, mental, or physical disability in the employment or application for employment or in the administration or delivery of services or any other benefits under this Contract.
- C. The Contractor shall, prior to the commencement of the work and during the term of this Contract, furnish the County, upon request and on such forms as may be provided by the County, a report of the affirmative action taken by the Contractor in implementing the terms of this section. The Contractor will permit access by the County to the Contractor's records of employment, employment advertisements, application forms, other pertinent data and records related to this Contract for the purpose of monitoring and investigation to determine compliance with these requirements.
- D. The Contractor shall implement and carry out the obligations contained in its Affidavit and Certificate of Compliance regarding equal employment opportunity. Failure to implement and carry out such obligations in good faith may be considered by the County as a material breach of this Contract and grounds for withholding payment and/or termination of the Contract and dismissal of the Contractor.
- E. The Contractor shall comply fully with all applicable federal, state and local laws, ordinances, executive orders and regulations that prohibit such discrimination. These laws include, but are not limited to, RCW Chapter 49.60 and Titles VI and VII of the Civil Rights Act of 1964.
- F. During the performance of this Contract, neither the Contractor nor any party subcontracting under the authority of this Contract shall engage in unfair employment practices. It is an unfair employment practice for any:
 - 1. Employer or labor organization to discriminate against any person with respect to referral, hiring, tenure, promotion, terms, conditions, wages or other privileges of employment;
 - 2. Employment agency or labor organization to discriminate against any person with respect to membership rights and privileges, admission to or participation in any guidance program, apprenticeship training program, or other occupational training program;
 - 3. Employer, employment agency, or labor organization to print, circulate, or cause to be printed, published or circulated, any statement, advertisement, or publication relating to employment or membership, or to use any form of application thereof, which indicates any discrimination unless based upon a bona fide occupation qualification;
 - 4. Employment agency to discriminate against any person with respect to any reference for employment or assignment to a particular job classification;

5. Employer, employment agency or a labor organization to retaliate against any person because this person has opposed any practice forbidden by KCC Chapter 12.18 or because that person has made a charge, testified or assisted in any manner in any investigation, proceeding or hearing initiated under the provisions of KCC Chapter 12.18;
6. Publisher, firm, corporation, organization or association printing, publishing or circulating any newspaper, magazine or other written publication to print or cause to be printed or circulated any advertisement with knowledge that the same is in violation of KCC Chapter 12.18.030C., or to segregate and separately designate advertisements as applying only to men and women unless such discrimination is reasonably necessary to the normal operation of the particular business, enterprise or employment, unless based upon a bona fide occupational qualification; and/or
7. Employer to prohibit any person from speaking in a language other than English in the workplace unless:
 - a. The employer can show that requiring that employees speak English at certain times is justified by business necessity, and
 - b. The employer informs employees of the requirement and the consequences of violating the rule.

PART 2: REQUIRED SUBMITTALS

- A. All Contractors entering into a contract or agreement with King County valued at \$25,000 or more shall, after the proposer receives written notice of selection, submit the following:
 1. A Personnel Inventory Report on the form provided by the County.
 2. An Affidavit of Compliance demonstrating the Contractor's commitment to comply with the provisions of KCC Chapter 12.16.
 3. A Sworn Statement of Compliance with 12.16 from any labor union or employee referral agency that refers workers or employees or provides or supervises training programs from whom the Contractor obtains employees.
- B. The County will not execute any agreement or contract without prior receipt of fully executed forms listed in subparagraph A above.
- C. Assistance with the requirements of this Section and copies of Chapters 12.16, 12.17 and 12.18 are available from the Business Development & Contract Compliance (BDCC) Section, phone (206) 205-0700.

PART 3: NONDISCRIMINATION IN SUBCONTRACTING PRACTICES

- A. Compliance with Initiative 200. In accordance with the provisions of Washington Initiative 200, no County Minority and Women Business (M/WBE) utilization requirements shall apply to this Contract. No minimum level of M/WBE sub-contractor participation or purchase from M/WBE certified vendors is required and no preference will be given by the County to a bidder or Proposer for their M/WBE utilization or M/WBE status. Provided, however, that any affirmative action requirements set forth in any federal regulations or statutes included or referenced in the Contract documents will continue to apply.
- B. Non-Discrimination. During the term of this Contract, the Contractor shall not create barriers to open and fair opportunities to participate in County contracts or to obtain or compete for contracts and subcontracts as sources of supplies, equipment, construction and services. In considering offers from and doing business with sub-contractors and suppliers, the Contractor shall not discriminate against any person on the basis of race, color, creed, religion, sex, age, nationality, marital status, sexual orientation or the presence of any mental or physical disability in an otherwise qualified disabled person.

During the performance of work performed under any Agreement resulting from this RFP, neither the Contractor nor any party subcontracting under the authority of the agreement shall discriminate or engage in unfair contracting practices prohibited by K.C.C. 12.17.

- C. Record-Keeping Requirements. The Contractor shall maintain, for at least 6 years after completion of all work under this contract, records and information necessary to document its level of utilization of M/WBEs

and other businesses as sub-contractors and suppliers in this contract and in its overall public and private business activities for the same period. The Contractor shall also maintain, for at least 6 years after completion of all work under this contract, all written quotes, bids, estimates or proposals submitted to the Contractor by all businesses seeking to participate on this Contract. Contractor shall make such documents available to the County for inspection and copying upon request. If this contract involves federal funds, Contractor shall comply with all record keeping requirements set forth in any federal rules, regulations or statutes included or referenced in the contract documents.

D. Open Competitive Opportunities. King County encourages the utilization of minority owned businesses ("MBEs") and women-owned businesses ("WBEs")(collectively, "M/WBEs") in County contracts. The County encourages the following practices to promote open competitive opportunities for small businesses including M/WBEs:

1. Attending a pre-bid or pre-solicitation conference, if scheduled by the County, to provide project information and to inform M/WBEs and other firms of contracting and subcontracting opportunities.
2. Placing all qualified small businesses attempting to do business in King County, including M/WBEs, on solicitation lists, and providing written notice of subcontracting opportunities to M/WBEs and all other small businesses capable of performing the work, including without limitation all businesses on any list provided by the County, in sufficient time to allow such businesses to respond to the written solicitations.
3. Breaking down total requirements into smaller tasks or quantities, where economically feasible, in order to permit maximum participation by small businesses including M/WBEs.
4. Establishing delivery schedules, where the requirements of this contract permit, that encourage participation by small businesses, including M/WBEs.
5. Providing small businesses including M/WBEs that express interest with adequate and timely information about plans, specifications, and requirements of the contract.
6. Utilizing the services of available community organizations, Contractor groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses including M/WBEs.

Further, the County encourages small businesses, including M/WBEs, to participate in the following practices to promote open competitive opportunities:

1. Attending a pre-bid or pre-solicitation conference, if scheduled by the County, to receive project information and to inform prime bidders/proposers of contracting and subcontracting capabilities.
2. Requesting placement on solicitation lists, and receipt of written notice of subcontracting opportunities.
3. Utilizing the services of available community organizations, Contractor groups, local assistance offices, the County, and other organizations that provide assistance in the recruitment and placement of small businesses and M/WBEs.

E. Sanctions for Violations. Any violation of the mandatory requirements of the provisions of this Section shall be a material breach of contract for which the Contractor may be subject to damages and sanctions provided for by contract and by applicable law.

PART 4: REQUIREMENTS DURING WORK

A. Site Visits

King County may at any time visit the site of the work and the Contractor's office to review records related to actual utilization of and payments to subcontracting firms. The Contractor shall maintain sufficient records necessary to enable King County to review utilization of subcontracting firms. The Contractor shall provide every assistance requested by King County during such visits.

PART 5: COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, AS AMENDED AND THE AMERICANS WITH DISABILITIES ACT OF 1990

The Contractor shall complete a Disability Self-Evaluation Questionnaire for all programs and services offered by the Contractor (including any services not subject to this Contract) and shall evaluate its services, programs and employment practices for compliance with Section 504 of the Rehabilitation Act of 1973, as amended ("504"), and the Americans with Disabilities Act of 1990 ("ADA"). The Contractor shall complete a 504/ADA Disability Assurance of Compliance prior to execution of a contract.

SECTION IV - GENERAL CONTRACT REQUIREMENTS

PART 1: TERMINATION CLAUSES

- A. This Contract may be terminated by the County without cause, in whole or in part, upon providing the Contractor ten (10) calendar days' advance written notice of the termination.

If the Contract is terminated pursuant to this Section IV, paragraph A: (1) the County will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and (2) the Contractor shall be released from any obligation to provide further services pursuant to the Contract.

- B. The County may terminate this Contract, in whole or in part, upon five (5) calendar days' advance written notice in the event: (1) the Contractor materially breaches any duty, obligation, or services required pursuant to this Contract, or (2) the duties, obligations, or services required herein become impossible, illegal, or not feasible.

If the Contract is terminated by the County pursuant to this Subsection IV(B) (1), the Contractor shall be liable for damages, including any additional costs of procurement of similar services from another source.

If the termination results from acts or omissions of the Contractor, including but not limited to misappropriation, nonperformance of required services or fiscal mismanagement, the Contractor shall return to the County immediately any funds, misappropriated or unexpended, which have been paid to the Contractor by the County.

- C. If expected or actual funding is withdrawn, reduced or limited in any way prior to the termination date set forth above in Section II or in any amendment hereto, the County may, upon written notice to the Contractor, immediately terminate this Contract in whole or in part.

If the Contract is terminated pursuant to this Section IV, paragraph C: (1) the County will be liable only for payment in accordance with the terms of this Contract for services rendered prior to the effective date of termination; and (2) the Contractor shall be released from any obligation to provide further services pursuant to the Contract.

Funding under this Contract beyond the current appropriation year is conditional upon appropriation by the County Council of sufficient funds to support the activities described in this Contract. Should such an appropriation not be approved, this contract will terminate at the close of the current appropriation year.

- D. Nothing herein shall limit, waive, or extinguish any right or remedy provided by this Contract or law that either party may have in the event that the obligations, terms and conditions set forth in this Contract are breached by the other party.

PART 2: INDEMNIFICATION AND HOLD HARMLESS

- A. In providing services under this Contract, the Contractor is an *independent contractor*, and neither the Contractor nor its officers, agents or employees are an employee of the County for any purpose. The Contractor shall be responsible for all federal and/or state tax, industrial insurance, and Social Security liability that may result from the performance of and compensation for these services and shall make no claim of career service or civil service rights which may accrue to a County employee under state or local law.

The County assumes no responsibility for the payment of any compensation, wages, benefits or taxes to, or on behalf of, the Contractor, its employees or others by reason of this Contract. The Contractor shall

protect, indemnify and save harmless the County, its officers, agents and employees from and against any and all claims, costs and/or losses whatsoever occurring or resulting from 1) the Contractor's failure to pay any such compensation, wages, benefits or taxes; and 2) the supplying to the Contractor of work, services, materials and/or supplies by Contractor employees or other suppliers in connection with the performance of this Contract.

- B. The Contractor further agrees that it is financially responsible for and shall repay the County all indicated amounts following an audit exception which occurs due to the negligence, intentional acts or failure for any reason to comply with the terms of this Contract by the Contractor, its officers, employees, agents and/or representatives. This duty to repay the County shall not be diminished or extinguished by the prior termination of the Contract pursuant to the Duration of Contract, or the Termination section.
- C. The Contractor shall protect, defend, indemnify, and save harmless the County, [and the State of Washington (when any funds for this Contract are provided by the State of Washington)] their officers, employees, and agents from any and all costs, claims, judgments, and/or awards of damages, arising out of or in any way resulting from the negligent acts or omissions of the Contractor, its officers, employees, and/or agents. The Contractor agrees that its obligations under this subparagraph extend to any claim, demand and/or cause of action brought by or on behalf of any of its employees or agents. For this purpose, the Contractor by mutual negotiation, hereby waives, as respects the County only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. In the event that County incurs attorney fees and/or costs in the defense of claims, for damages within the scope of this section, such fees and costs shall be recoverable from the Contractor. In addition King County shall be entitled to recover from the Contractor fees, and costs incurred to enforce the provisions of this section.

Claims shall include, but not be limited to, assertions that the use or transfer of any software, book, document, report, film, tape, or sound reproduction or material of any kind, delivered hereunder, constitutes an infringement of any copyright, patent, trademark, trade name, or otherwise results in unfair trade practice.

Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this agreement.

PART 3: INSURANCE

Insurance requirements shall be identified as required.

PART 4: CORRECTIVE ACTION

If the County determines that a breach of contract has occurred, that is the Contractor has failed to comply with any terms or conditions of this Contract or the Contractor has failed to provide in any manner the work or services agreed to herein, and if the County deems said breach to warrant corrective action, the following sequential procedure will apply:

- A. The County will notify the Contractor in writing of the nature of the breach;
- B. The Contractor shall respond in writing within three (3) working days of its receipt of such notification, which response shall indicate the steps being taken to correct the specified deficiencies. The corrective action plan shall specify the proposed completion date for bringing the Contract into compliance, which date shall not be more than ten (10) days from the date of the Contractor's response; unless the County, at its sole discretion, specifies in writing an extension in the number of days to complete the corrective actions;
- C. The County will notify the Contractor in writing of the County's determination as to the sufficiency of the Contractor's corrective action plan. The determination of sufficiency of the Contractor's corrective plan shall be at the sole discretion of the County;
- D. In the event that the Contractor does not respond within the appropriate time with a corrective action plan, or the Contractor's corrective action plan is determined by the County to be insufficient, the County may commence termination of this Contract in whole or in part pursuant to Section IV.B;

- E. In addition, the County may withhold any payment owed the Contractor or prohibit the Contractor from incurring additional obligations of funds until the County is satisfied that corrective action has been taken or completed; and
- F. Nothing herein shall be deemed to affect or waive any rights the parties may have pursuant to Section IV, Termination Clauses, Subsections A, B, C, and D.

PART 5: ASSIGNMENT/SUBCONTRACTING

- A. The Contractor shall not assign or subcontract any portion of this Contract or transfer or assign any claim arising pursuant to this Contract without the written consent of the County. Said consent must be sought in writing by the Contractor not less than fifteen (15) calendar days prior to the date of any proposed assignment.
- B. "Subcontract" shall mean any agreement between the Contractor and a Subcontractor or between Subcontractors that is based on this Contract, provided that the term "subcontract" does not include the purchase of (i) support services not related to the subject matter of this contract, or (ii) supplies.

SECTION V - ADDITIONAL INFORMATION & REQUIREMENTS

- A. Non-Discrimination in Benefits to employees with Domestic Partners

King County's Equal Benefits (EB) Ordinance 14823 states that to be eligible for award of contracts at a cost of \$25,000.00 or more, firms must not discriminate in the provisions of employee benefits between employees with spouses, and employees with domestic partners. The successful Contractor, bidder or proposer shall be required to complete a Worksheet and Declaration form. Compliance with Ordinance 14823 is a mandatory condition for execution of a contract. The EB Compliance forms are available online at: <http://www.metrokc.gov/procurement/forms/eb.aspx>.

- B. Disclosure – Conflict of Interest

King County Code Chapter 3.04 is incorporated by reference as if fully set forth herein and the Contractor agrees to abide by all the conditions of said Chapter. Failure by the Contractor to comply with any requirements of this Chapter shall be a material breach of contract.

1. The Contractor covenants that no officer, employee, or agent of the County who exercises any functions or responsibilities in connection with the planning and implementation of the scope of services funded herein, or any other person who presently exercises any functions or responsibilities in connection with the planning and implementation of the scope of services funded herein shall have any personal financial interest, direct or indirect, in this Contract. The Contractor shall take appropriate steps to assure compliance with this provision.
2. If the Contractor violates the provisions of Section V (1) or does not disclose other interest required to be disclosed pursuant to King County Code Section 3.04.120, as amended, the County will not be liable for payment of services rendered pursuant to this Contract. Violation of this Section shall constitute a substantial breach of this Contract and grounds for termination pursuant to Section IV (B) above as well as any other right or remedy provided in this Contract or law.
3. The King County Board of Ethics maintains a website that provides information regarding King County ethics requirements. To review specific areas of the Code of Ethics that relate to contractors and vendors, follow this path: <http://www.metrokc.gov/ethics/>, and access 1) The Code of Ethics, "Employee Code of Ethics 3.04", and 2) Advice and Guidance "Doing Business with Contractors, Vendors, Clients and Customers". Under "Employee Code of Ethics 3.04", there are two areas of the code that speak specifically to contractors: 3.04.060 B1 (attempting to secure preferential treatment) and 3.04.120 (disclosure of interests by consultants requirement). There are other sections under conflict of interest, 3.04.030 that are directed to employees and govern their relationships with contractors.

- C. Recycled/Recyclable Products

It is the policy of King County to use recycled materials to the maximum extent practicable (King County Code Chapter 10.16). Contractors able to supply products containing recycled materials that meet

performance requirements are encouraged to offer them in bids and proposals and to use them wherever possible in fulfillment of contracts.

The Contractor shall use recycled paper for the production of all printed and photocopied documents related to the fulfillment of this Contract and shall ensure that, whenever possible, the cover page of each document printed on recycled paper bears an imprint identifying it as recycled paper. If the cost of recycled paper is more than fifteen percent higher than the cost of non-recycled paper, the Contractor may notify the Contract Administrator, who may waive the recycled paper requirement. The Contractor shall use both sides of paper sheets for copying and printing and shall use recycled/recyclable products wherever practical in the fulfillment of this Contract.

D. Proprietary Rights

The parties to this Contract hereby mutually agree that if any patentable or copyrightable material or article should result from the work described herein, all rights accruing from such material or article shall be the sole property of the County. The foregoing shall not apply to existing training materials, consulting aids, check lists and other materials and documents of the Contractor which are modified for use in the performance of this Contract.

E. Supported Employment Program

King County encourages the creation of supported employment programs for developmentally and/or severely disabled individuals. The County itself has such a program and is actively seeking to do business with those contractors and consultants that share this employment approach. If your firm has such a program, or intends to develop such a program during the life of this contract, please submit documentation supporting this claim with your bid/proposal/qualifications. If you have questions, or need additional information, please contact Ray Jensen, Community & Human Services, Developmental Disabilities Division, (206) 296-5268 or the County's Business Development and Contract Compliance Section at (206) 205-0700.

SECTION VI - MAINTENANCE OF RECORDS/AUDITS

- A. The Contractor shall maintain, and shall require any sub-contractor to maintain, accounts and records, including personnel, property, financial and programmatic records and other such records as may be deemed necessary by the County to ensure proper accounting for all project funds and compliance with this Contract. All such records shall sufficiently and properly reflect all direct and indirect costs of any nature expended and services provided in the performance of this Contract. The Contractor shall make such documents available to the County for inspection, copying, and auditing upon request.
- B. All records referenced in subsection (A) shall be maintained for a period of six (6) years after completion of work or termination hereof unless permission to destroy them is granted by the Office of the Archivist in accordance with RCW Chapter 40.14, or unless a longer retention period is required by law.
- C. The Contractor shall provide access to its facilities, including those of any sub-contractor, to the County, the state and/or federal agencies or officials at all reasonable times in order to monitor and evaluate the services provided under this Contract. The County will give advance notice to the Contractor in the case of fiscal audits to be conducted by the County.
- D. The Contractor agrees to cooperate with the County or its designee in the evaluation of services provided under this Contract and to make available all information reasonably required by any such evaluation process. The results and records of said evaluation shall be maintained and disclosed in accordance with RCW Chapter 42.17.
- E. If the Contractor received a total of \$500,000.00 or more in federal financial assistance during its fiscal year from the County, and is a non-profit organization or institution of higher learning or a hospital affiliated with an institution of higher learning, and is, under this Contract, carrying out or administering a program or portion of a program, it shall have an independent audit conducted of its financial statement and condition, which shall comply with the requirements of GAAS (generally accepted auditing standards), GAO's Standards for Audits of Governmental Organizations, Programs, Activities, and Functions and OMB

Circulars A-133 and A-128, as amended and as applicable. Contractors receiving federal funds from more than one County Department or Division shall be responsible for determining if the combined financial assistance is equal or greater than \$500,000.00. The Contractor shall provide one copy of the audit report to each County division providing federal financial assistance to the Contractor no later than six (6) months subsequent to the end of the Contractor's fiscal year.

SECTION VII – REQUIRED FORMS

The following completed forms are required of selected contractors to the County, prior to contract award:

- A. King County Personnel Inventory Report
- B. Affidavit and Certificate of Compliance with King County Code 12.16
- C. Statement of Compliance - Union or Employee Referral Agency Statement (if applicable)
- D. 504/ADA Disability Assurance of Compliance and Corrective Action Plan
- E. Equal Benefits Compliance Declaration Form

Copies of these forms are available by contacting the King County Procurement and Contract Services Division. They are available in paper form, or may be obtained via e-mail. Please contact Cathy Betts at 206-263-4267 or Roy L. Dodman at 206-263-4266, or by sending an e-mailed request to cathy.betts@metrokc.gov or roy.dodman@metrokc.gov.

SECTION VIII – BID SUBMITTAL CHECKLIST

- A. One (1) signed copy of entire RFP package.
- B. One (1) signed copy of any Addendum that was issued. (If it has signature box at bottom of first page, it must be returned.)
- C. One (1) unbound copy of qualification submittal response marked "Original."
- D. Eight (8) copies of qualification submittal response, plus Proforma Attachment A.
- E. Complete the Bid Identification Label below (or reasonable facsimile) and attach it to a prominent place on the exterior of the submission envelope, box, etc.


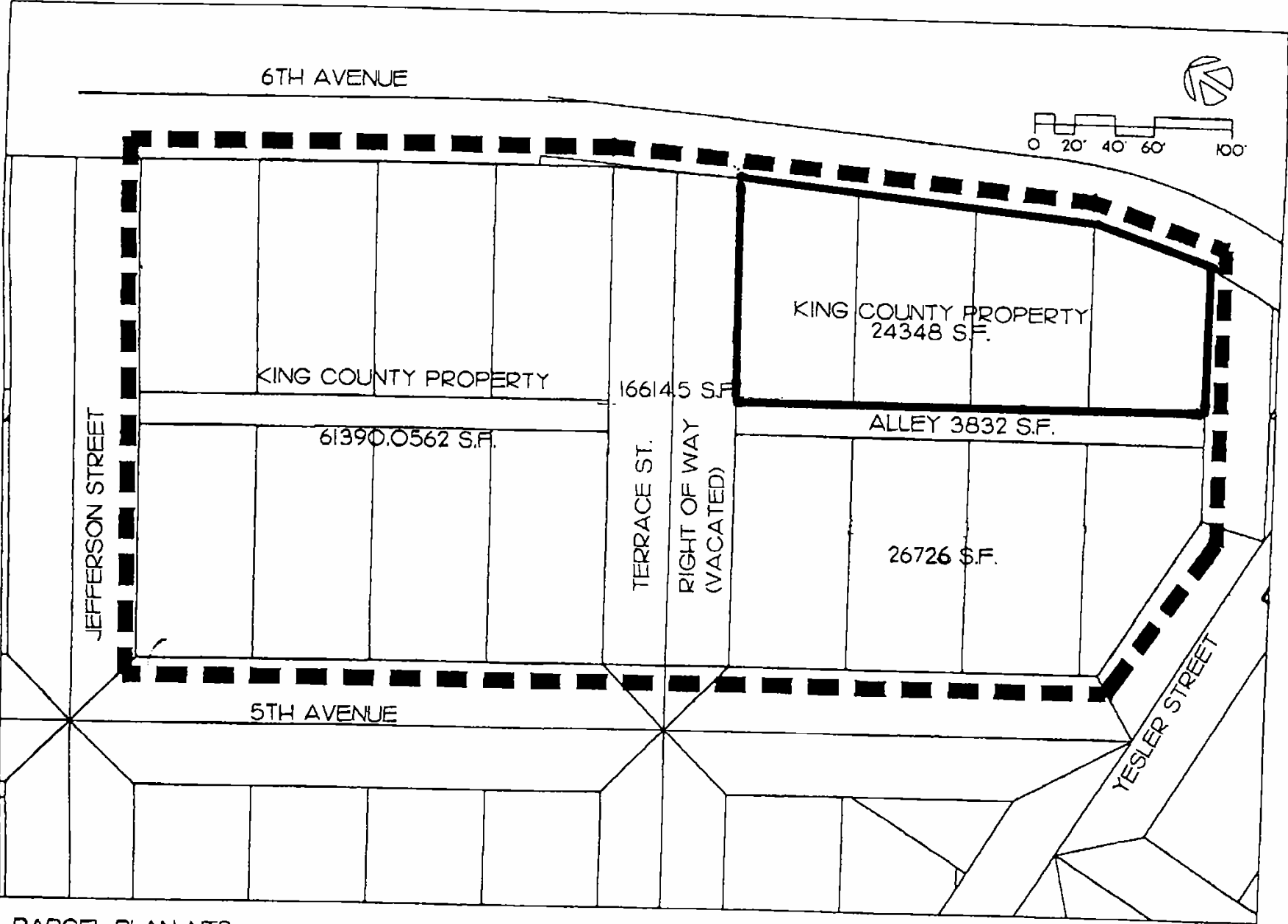
URGENT – SEALED BID ENCLOSED	
Do Not Delay – Deliver Immediately	
	King County Procurement & Contract Services Section Exchange Building, 8 th Floor 821 2nd Ave, EXC-FI-0862 Seattle, WA 98104-1598
King County	
Bid No.	RFP 204-06RLD
Bid Title	Consolidated Elections Facility
Due Date	
Vendor	

EXHIBIT A – AREA MAP



PARCEL PLAN: NTS
TOTAL SITE AREA: 132,911 SQUARE FEET

EXHIBIT B – RFP PRELIMINARY PROGRAM

1. INTRODUCTION AND SUMMARY:

The County has prepared a preliminary program that identifies a building containing approximately:

- + / - 66,000 rentable square feet of open office space to accommodate administration and mail ballot processing functions;
- + / - 17,000 rentable square feet of open warehouse space to accommodate a county-wide vote-by-mail election, including storage and staging of election equipment;
- Unless otherwise noted, all references in this preliminary program to square foot areas, shall be measured in accordance with ANSI/BOMA recommended standards.
- In light of achieving a “best value” result, Developers responding to the RFP have been requested to not only examine and propose on the minimal above stated office and warehouse / distribution space, but also *identify how to maximize the total build-out potential of the site in terms of current land use and zoning restrictions, including identification of marginal costs for increased build out.*
- Further, in light of achieving a “best value” result, the County intends to collaborate with the selected Developer / Development Team to examine and scrutinize the program assumptions. The selected development team will be encouraged to make recommendations that will result in a best value delivery approach, in terms of designing and implementing work space throughout the Project.

Moreover, the County expects to achieve:

- An efficient layout for the planned County functions, including layout for ballot processing similar to light manufacturing / distribution / fulfillment services;
- A process engineered design and implementation incorporating both human and automatic systems for a consolidated elections facility, including design, development, installation, integration, testing and activation.
- Tenant improvements in accordance with County requirements;
- Parking sufficient to meet code requirements. Note that on-site parking capacity may be used in combination with King County’s recently completed Goat Hill Parking Garage such that both on-going and peak parking requirements of this Consolidated Elections Facility can be met;
- LEEDs Silver Certification;

As can be seen, this approach is unequivocally different from a typical “prescribed” programming approach. In fact, it is much more like the opening of a conversation. As a result, the following “program” is preliminary, informational and subject to modification based upon more efficient and/or effective solutions as collaboration between the County and the selected Developer / Development Team evolves.

2. PROGRAM IMPLICATIONS

a. Adaptability

A readily adaptable environment dictates structural, mechanical, electrical and space planning systems that can be simply altered. The building structural system should be engineered for heavy loads, with a minimum of bearing walls and widely spaced column grid. The HVAC system should have reserve capacity and not be concealed by interior construction. Simple high volume design or elaborate low volume design provides this adaptability. Electrical distribution should be exposed for access and possess reserve capacity. Consider: should interior partitions should be detachable and reusable, with vertical shafts and major circulation areas at the perimeter of the floor plate to minimize restrictions to space use?

b. Observable Transparency

Line of sight visibility provides low effort (and low cost) viewing of the Elections process. An open space plan should allow for a minimum segregation of observers from processing functions. Line of sight observation should enhance the security of the process while avoiding costs of an overly extensive surveillance system, including its maintenance and training requirements.

c. Security

Initial approach to spatial security: consider minimizing the number of access and transfer points, reducing the need to enter and exit the secured perimeter. This implies inclusion of all process and staff needs within the perimeter. Tracking of the processes and staff within the perimeter should further enhance security. Movement between floors in enclosed conveyances creates additional security monitoring points. Ideally, minimize security costs and processes while maximizing effectiveness. Consider: how might security efforts work differently on different floors?

d. Efficiency

Consider: how can / should agencies enhance efficient operations? Can closely related functions be located on one level? In all cases? For Elections this may include numerous vehicle deliveries, staff flows and cart borne materials. Housing these processes and future Elections technologies with readily adaptable space and building systems, should reduce encumbrances to future efficiency.

Manufacturing / warehouse type facilities can incorporate many of the above attributes at a minimal cost. Floors carry high loads with very open column grids. HVAC systems are exposed with high capacity zones. Shafts and bearing walls are placed at perimeter if at all existent; etc. Should this be incorporated into a single building with more elevated floors above that will house more traditional office functions? If so, how?

3. PARKING

- Meet applicable code(s);
- In an ideal world, the facility would meet a “normal, ongoing” on-site parking requirement for 225 persons; moreover, additional parking will be required due to cyclical increases in elections staff before and after the six elections held per year. These peak periods occur several weeks prior to and immediately following each election. During the most demanding of these election periods, there is a peak access demand of approximately 750 persons.
- The project will need to accommodate secured parking for County vehicles, including 2 - 24' class B vans, 15-1 ton vans and 12 passenger vehicles.
- Vehicular access to loading bay doors must be available during peak delivery periods including after normal business hours and not be blocked by parked vehicles or other obstructions.
- On-site parking capacity may be used in combination with King County's recently completed Goat Hill Parking Garage such that both on-going and peak parking requirements of this Consolidated Elections Facility can be met.

4. ELECTIONS PROGRAMMATIC REQUIREMENTS

a. Elections Programmatic Facility Needs

Accommodation of process change: this means anticipating new processes in the initial design. It also means design and construction methods that allow simple low-cost future alterations.

b. Planning and Design Issues

Due to undefined potential changes in Statute, space estimates assume the existing processes (polling precincts and mail ballots) will continue 3-12 years, or until new processes are tested and existing systems are replaced. Existing processes are labor and paper intensive, with substantial space requirements.

Until detailed analysis of process and technological efficiencies are completed, the space estimates indicated are projections, based on anticipated growth of total ballot load. The 2004 election processed 650,000 mail ballots. King County intends to administer all elections by mail. Space requirements included in this program provide additional mail processing capacity and reuse of poll based activity space to meet production demand of 1,100,000 ballots.

c. Design Objectives

The following goals form the mission statement for the Elections Operation and the consolidated facility that will house it:

- Timely delivery of Elections processes;
- Uniformity of process and procedure;
- Security and transparency of election processes;
- Economical use of staff and facility resources;
- Provision for strategic growth

These goals create four basic objectives of this program and the resulting facility:

- Functionality: Provide sufficient and appropriate accommodation of processes.
- Flexibility: Provide an adaptable facility to accommodate future change.
- Security: Provide for the security of process, ballots, and staff safety
- Economy: Provide the highest utility of limited building and staff resources.

d. Organizational Characteristics

An efficient, secure and flexible facility should have the following organizational components:

- Administration: centralized management of election processes; public services; voter registration and data management; training of election workers and staff; development of new processes and technology
- Ballot processing: development and assembly of poll and mail ballots; outbound mail balloting; in-bound mail balloting and tabulations; canvassing and certification of elections
- Storage and depot staging: assembly and staging of polling place equipment and supplies; preservation of election records; maintenance & storage of polling place equipment; management of polling place supplies

e. Cyclical Workload

The most challenging planning issue associated with elections is the cyclical nature of the workload. Currently six elections of broadly varying intensity occur on an annual basis. Current operations and facilities will be substantially streamlined through investment in process analysis, equipment, training, and an 'intentional' design effort. Resources to produce these elections have been roughly estimated in terms of staff and in number of ballots:

September 2004: 280 staff; 650,000 mail ballots

September 2008: 750 staff; 1,100,000 mail ballots

f. Security

For the purpose of this program, security can be defined as the integration of operating policy, building features, procedures, equipment and personnel required to insure the integrity of the elections process and the personal safety of staff members.

Consider: how can the following security design and technologies be integrated into the facility design:

- i. Building access control
- ii. Data and Ballot tracking
- iii. 24 hour Surveillance of Elections site and production areas
- iv. Secured poll staging and incoming delivery areas
- v. Secondary lock down of ballot storage (ballot vault) and internal access control.
- vi. Information systems backup power and data redundancy.

g. Adaptive Infrastructure

Adaptive building infrastructure is important. Elections staff anticipates significant changes to Washington state statutes governing election processes in the near future. New Election law could add

additional process accessibility requirements to poll balloting. Elements of facility design must be adaptable to changes in technologies, process, equipment and staffing. Critical infrastructure shall be designed and constructed in a way that minimizes reconfiguration costs.
Flexible, robust electrical power grid

- 'Office standard' lighting
- Flexible, robust communications and data transfer
- Adaptable spatial enclosures, workstations
- Adaptable mail handling equipment

h. Transparency and Observation

Recent close elections have created a demand for direct real-time visibility of all election processes. This includes accommodating party representatives, press and interested members of the public within the work areas during the election process. The facility shall provide numerous areas from which to observe the processes without encumbering production efficiency or compromising the security of the process. Environmental enclosures, furnishings and all types of containers shall be designed to provide, literally a 'transparent' production system.

i. Elections Workflow Analysis

See **ATTACHMENT 1***, "Process Work Flow", which attempts to describe today's sub tasks, process sequence and dependencies of multiple election functions. They are described in 'Election Operations' narrative. The graphic method is simplified for ease of understanding and is printed on three pages to meet the format of this document. As a result of consolidation, additional analysis and development will seek to streamline today's processes by shortening or eliminating transfer tasks or conducting closely related activities in multi-purpose space. (***Note: this Attachment was not available at the time of this RFP's release, and is anticipated to be issued by way of an Addendum to this solicitation**).

j. Space Program

An estimate of space requirements in 2015 is shown in an MS Excel in **ATTACHMENT 2** (http://www.metrokc.gov/procurement/rfpdocs/2006/May/Consultants/204-06/204-06_Attach2.xls). Due to undefined potential changes in state or county statutes, space estimates assume the existing processes (regional polling centers and mail ballots) will continue 3-12 years, or until new processes are tested and existing systems are replaced. Existing processes are labor and paper intensive, with substantial space requirements. Until detailed analysis of process and technological efficiencies are completed, the space estimates indicated are projections, based on anticipated growth of total ballot load. The 2004 election processed 650,000 mail ballots. King County intends to administer all elections by mail creating a mail ballot processing capacity of 1,100,000 ballots in 2008.

Until research and development of new production processes are implemented, the facility program must be modeled on existing production methods. Reasonable projections for growth of the existing process and organization to 2015 have been factored into area estimates. This conservative approach is necessary due to uncertainty regarding future Election Statutes.

k. Unique Facility Requirements

- i. Capability to power up 80% of electrical and lighting systems with portable generators. 20% of power grid shall be supportable by permanent generators for 3 days.
- ii. The Mail Ballot processing space should have direct, secure access to a dedicated loading dock. The loading dock should provide a minimum of two weather-protected loading bays and include at least one adjustable dock leveler to accommodate different truck bed heights, and one ground level bay door adjacent loading dock.
- iii. If Mail Ballot processing space is on multiple levels, provide 2-4500# elevators with 60" wide doors for transfer of palletized materials.

- iv. Minimum of 50 fc lighting at work surfaces.
- v. Power for 370 computer work stations and 10 printers plus and additional 80 computer type devices.
- vi. Additional power for other small industrial equipment including high speed envelope openers, envelope insertion machines, battery chargers, forklift chargers.
- vii. 1600 rsf with 16 foot high ceilings, or an equivalent volume in a larger floor area, to allow for pallet shelving for ballot storage, with open floor plan, and room for forklift to maneuver. This area shall support loads of 125 PSF for the storage of Elections records.
- viii. Code compliant toilet facilities on processing level(s) for 425 occupants.

I. Election Distribution Center (Poll distribution)

- i. 17,000 sq ft of open warehouse with 16 foot high ceiling, or an equivalent volume in a larger floor area, to allow pallet shelving for ballot storage sufficient to accommodate a county-wide vote-by-mail election (VBM) and storage and staging of election equipment and supplies.
- ii. Meet floor load requirements for warehouse use and structural seismic stability.
- iii. Vehicle drive-in space separate from parking areas to allow easy van ingress/egress for depot activities, supply and equipment distribution.
- iv. Vehicle queuing area for 30 poll vehicles and one-way drop off zone. May be combined with other site requirements if no loss of functionality occurs.
- v. Dedicated loading dock providing a minimum of two weather-protected loading bays and including one adjustable dock leveler to accommodate different truck bed heights; and one ground level bay door adjacent loading dock. This requirement may be co-located with other ballot processing loading requirements if no loss of functionality occurs

**KING COUNTY CONSOLIDATED ELECTIONS FACILITY
DEVELOPMENT AGREEMENT**

Between

a Washington nonprofit corporation

(Owner)

and

("Developer")

Dated as of

the ____ day of _____, 2006

**King County Office Building
Development Agreement
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A	Legal Description of Building Land	Recitals	
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C	Base Shell and Core Building	Section 1	
D	Project Budget	Sections 1, 4(c)	
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KING COUNTY OFFICE BUILDING DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") dated as of the ____ day of _____, 200_, is by and between _____, a ("Owner"), and _____, (Developer").

RECITALS

A. Owner is the lessee under that certain Building Ground Lease dated as of _____, 200_ (the "Building Ground Lease"), with King County, a political subdivision of the State of Washington (the "County"), as lessor, pursuant to which Owner leases that certain real property located in the City of Seattle, King County, Washington (the "Building Land") more specifically described on Exhibit A hereto.

B. Owner wishes to construct on the Building Land a first-class building to serve as a consolidated elections facility containing approximately 90,000 square feet of rentable area as more fully described in the Preliminary Plans and Outline Specifications, including all HVAC, electrical and other building systems and Tenant Improvements pursuant to the Summary Program Document and Plans and Outline Specifications (the "Building"). The design and construction of the Building is referred to in this Agreement as the "Project."

C. Owner, as landlord, and the County, as tenant (in its capacity as tenant under the Lease, "Tenant") are parties to that certain Project Lease Agreement dated as of _____, 2006 (the "Project Lease") whereby Tenant has agreed to leaseback the Building upon substantial completion thereof, at the rent and subject to all of the terms, covenants, and conditions set forth in the Project Lease, a copy of which is attached hereto as Exhibit C and by this reference incorporated herein. The Project Lease requires that Owner shall cause Developer to design, develop, construct and complete the Project.

D. Owner hereby engages Developer to develop, oversee and manage the design, permitting and construction phases of the Project in accordance with the terms and conditions of this Agreement for a Fixed Price of \$_____. Developer agrees to perform development and construction management services in connection with the construction of the Project in accordance with the terms and conditions of this Agreement. Subject to the terms and conditions hereof, Developer agrees to provide the financial warranty that the Project will be completed for the Fixed Price of \$_____.

E. Owner understands that Developer will perform no construction services. The parties intend for the Owner to contract directly and separately with those contractors performing construction services and with the Architect designing the Base Shell and Core Building and with the Interior Architect designing the Tenant Improvements. If, during the performance of this Agreement, additional construction service contractors are retained, the Owner shall contract with them directly or Developer shall contract with them on behalf of and acting as the Owner's agent.

F. Owner intends to pay the Fixed Price with the proceeds of tax-exempt obligations which satisfy the requirements of Revenue Ruling 63-20, Revenue Procedure 82-26 and other regulations, interpretations and letter rulings issued by the Internal Revenue Service with respect to such financings.

NOW, THEREFORE, in order to fulfill the foregoing objectives, Owner and Developer desire to enter into this Agreement and proceed in accordance with its terms.

1. **Definitions.** As used herein, the following terms shall have the following meanings:

"ADA" means the Americans With Disabilities Act of 1990, as amended from time to time.

"Architect" means the architect for the Project selected by Owner and Developer with Tenant's approval.

"Architect's Agreement" means the Agreement between Owner and Architect with respect to the Project.

"Base Shell and Core Building" means the Building to be constructed on the Land, exclusive of the Tenant Improvements. The Base Shell and Core Building is more particularly described in the attached Exhibit D.

"Bond Closing" refers to the date the Bond proceeds are made available to the Trustee.

"Bond Insurer" means an insurance company which issues a municipal bond insurance policy at the request of Owner in connection with the issuance of the Bonds, if any. If no Bond Insurer is selected to insure the Bonds, references to the Bond Insurer hereunder shall be deemed to be deleted.

"Bonds" means those tax-exempt obligations to be issued by the Owner which satisfy the requirements of Revenue Ruling 63-20, Revenue Procedure 82-26 and other regulations, interpretations and letter rulings issued by the Internal Revenue Service with respect to such financings, from the proceeds of which Owner intends to pay, among other things, the Fixed Price.

"Building" means the first-class office building to serve as offices for the Tenant to be constructed on the Building Land containing approximately _____ square feet of rentable area as more fully described in the Preliminary Plans and Outline Specifications, including all HVAC, electrical and other building systems and Tenant Improvements.

"Building Ground Lease" means the long-term ground lease entered into, or to be entered into, by _____ as the tenant and the County as landlord for the Building Land described on the attached Exhibit B.

"Building Land" means the real property located in the City of Seattle, King County, Washington, more specifically described on Exhibit B hereto.

"Commencement of Construction" means the date Developer executes and delivers to General Contractor the Release for Construction attached to the General Construction Contract.

"Construction Contracts" means (i) the General Construction Contract and (ii) all other contracts for construction services entered into between Owner, or Developer on the behalf of and acting as agent for Owner, and any Contractor, including General Contractor, for construction of Tenant Improvements or any other portion of the Project not covered by the General Construction Contract.

"Construction Documents" means the Construction Drawings and Detailed Specifications approved by the Owner with input from the Tenant for construction of the Project, including technical drawings, schedules, diagrams, plans and specifications setting forth in detail the requirements for construction of the Project and providing information customarily required for the use of the building trades.

"Construction Drawings" means drawings setting forth in detail the requirements for the construction of the Project. As used herein "Construction Drawings" include all graphic and pictorial documents depicting the design, location and dimensions of the elements of the Project (including Tenant Improvements) and include plans, elevations, sections, details, schedules and diagrams for the Project. Construction Drawings may consist of separate Construction Drawings for (i) the Base Shell and Core Building prepared by Architect and (ii) the Tenant Improvements prepared by the Interior Architect.

"Contract Documents" means the Construction Documents, the Construction Contracts and the other documents identified as Contract Documents in the General Construction Contract.

"Contractors" means the General Contractor and any other construction contractors with whom Owner enters into direct contracts upon the written recommendation of Developer or with whom the Developer on behalf of and acting as the Owner's agent contracts for the Project.

"Costs Not To Be Reimbursed" means, except as specifically provided in Section 11 hereof (relating to Developer's Overhead Allowance and Developer's Fee), (i) salaries or other compensation of Developer's personnel or of Contractor's personnel normally situated at the Developer's principal office, Contractor's principal office or branch offices, or for any officer of Developer or Contractor; (ii) expenses of Developer's or Contractor's principal office; (iii) overhead or general expenses; and (iv) Project Costs in excess of the Fixed Price.

"Costs Resulting From Owner-Caused Delay" means any increase in costs of constructing the Project resulting from Owner-Caused Delay. Where additional costs are incurred as a result of a combination of Owner-Caused Delay and (i) failure of Developer to provide, within the time frames allowed hereunder, draw requests, architect's certifications, progress completion certifications, copies of change orders and supporting documentation, shop drawings, schedules, costs, invoices, job progress reports, or other documents or information which Owner is entitled to receive hereunder or which is reasonably requested by Owner in connection with any such decision or response required hereunder, or (ii) delay caused by the existence of reasonable cause to suspect that construction of the Project or Tenant Improvements or any other services provided by Developer hereunder have not been performed in accordance with Construction Documents and other requirements hereunder, Costs Resulting From Owner-Caused Delay shall be only the portion of such costs fairly attributable to Owner-Caused Delay.

"Detailed Specifications" means all written detailed requirements for materials, equipment, construction systems, standards and workmanship for the construction of the Project.

"Developer" means _____, and its successors and permitted assigns hereunder.

"Developer Obligation Date" means the date _____ months after Bond Closing. The Developer Obligation Date shall be extended to the extent of (i) Unavoidable Delays; provided, however, that extensions due to Unavoidable Delays shall not exceed ninety (90) days; (ii) Owner-Caused Delays; and (iii) delays incurred as a result of the presence of any Hazardous Substances in, on or emanating from the Building Land as of the Effective Date of the Project Lease (as defined therein) in excess of the time specifically provided in the approved Project Schedule for remediation of any such Hazardous Substances.

"Developer's Fee" means the fee to be paid to Developer subject to the terms and conditions set forth in Sections 11 and 12 of this Agreement.

"Developer's Overhead Allowance" means the monthly allowance to be paid to Developer subject to the terms and conditions set forth in Section 11 of this Agreement.

"Environmental Laws" means, as amended from time to time, the Federal Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901 et seq., Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Section 9601 et seq., Federal Hazardous Materials Transportation Control Act, 42 U.S.C. Section 1801 et seq., Federal Clean Air Act, 42 U.S.C. Section 7401 et seq., Federal Water Pollution Control Act, Federal Water Act of 1977, 93 U.S.C. Section 1251 et seq., Federal Insecticide, Fungicide and Rodenticide Act, Federal Pesticide Act of 1978, 7 U.S.C. Section 136 et seq., Federal Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq., Federal Safe Drinking Water Act, 42 U.S.C. Section 300f et seq., Washington Water Pollution Control Act, RCW Chapter 90.48, Washington Clean Air Act, RCW

Chapter 70.94, Washington Solid Waste Management Recovery and Recycling Act, RCW Chapter 70.95, Washington Hazardous Waste Management Act, RCW Chapter 70.105, Washington Hazardous Waste Fees Act, RCW Chapter 70.95E, Washington Model Toxics Control Act, RCW Chapter 70.105D, Washington Nuclear Energy and Radiation Act, RCW Chapter 70.98, Washington Radioactive Waste Storage and Transportation Act of 1980, RCW Chapter 70.99, Washington Underground Petroleum Storage Tanks Act, RCW Chapter 70.148.

"Final Acceptance" means the Owner's written approval and concurrence that certain events, more fully defined in Section 12 of this Agreement, have occurred prior to Final Payment being made.

"Final Payment" means payment to Developer, General Contractor and any other Contractors following Final Acceptance of the Project pursuant to Section 13 of this Agreement.

"Financing Costs" means all financing costs approved by bond counsel in connection with the issuance of the Bonds.

"Fixed Price" means \$_____, the total amount to be paid by Owner for Project Costs, excluding Other Costs, for the completion of the design, development, permitting and construction of the Project, and is the price to be paid by Owner for Project Costs. The Fixed Price includes the amount of the Tenant Improvement Allowance but does not include Other Costs. A detailed description of Project Costs by line item and category is set forth in the Project Budget.

"General Construction Contract" means the agreement between Owner and the General Contractor for construction of the Base Shell and Core Building and Tenant Improvements for the Project.

"General Contractor" means _____, the general contractor for the Project selected by Owner with Tenant's approval.

"Guaranteed Maximum Construction Price" means the maximum cost for construction of the Base Shell and Core Building and Tenant Improvements as guaranteed by the General Contractor pursuant to the terms of the General Construction Contract.

"Hazardous Substances" means any material, waste, substance, industrial waste, toxic waste, chemical contaminant, petroleum, asbestos, polychlorinated biphenyls, radioactive materials or other substances regulated or classified by Environmental Laws as hazardous, toxic or lethal to persons or property.

"Indenture" means the trust indenture pursuant to which Owner will cause the issuance of the Bonds, a copy of which shall be provided to Developer by Owner at Bond Closing.

"Initial Draw" refers to Developer's first application for payment of Project Costs, which shall not occur before Bond Closing.

"Interior Architect" means _____, the interior architect for the Project selected by Owner and Developer with Tenant's approval.

"Interior Design Contract" means the contract for space planning design services in connection with the design of Tenant Improvements entered into by Owner and the Interior Architect.

"Land" means the Building Land.

"Laws" means any constitution, statute, ordinance, regulation, rule, resolution, judicial decision, administrative order or other requirement of any federal, state, county, municipal or other governmental agency or authority having jurisdiction over the parties or the Premises, including without limitation, any regulation or order of a quasi-official entity or body (e.g., board

of fire examiners or public utilities) and all rules, laws and regulations issued thereunder, as the same may be amended from time to time.

"Master Use Permit" or "MUP" means the Master Use Permit for the Project issued by the City of Seattle.

"Other Costs" means the costs totaling \$_____ listed under the heading "Other Costs" on the Project Budget attached hereto as Exhibit E. Other Costs shall be considered Project Costs but shall not be included in the determination of the Fixed Price.

"Overhead Allowance" means the overhead allowance to be paid to Developer in accordance with the provisions of Section 11(b) of this Agreement.

"Owner" means _____, a Washington nonprofit corporation, its successors and permitted assigns.

"Owner-Caused Delay" means any period of delay in the overall progress of design, construction, and completion of the Project, including Tenant Improvements, that is caused by Owner-initiated change orders to the General Construction Contracts or by Owner's failure to approve, disapprove, decide, or otherwise respond to Developer with respect to a particular item for which Owner's response is required hereunder or under the General Construction Contract, or failure to deliver plans, information, specifications, or other information within the time frames required under this Agreement or the General Construction Contracts. However, Owner-Caused Delay shall not include: (i) delay for which a substantially contributing cause is Developer's failure to provide, within the time frames allowed hereunder, draw requests, architect's certifications, progress completion certifications, copies of change orders and supporting documentation, shop drawings, schedules, costs, invoices, job progress reports, or other documents or information which Owner is entitled to receive hereunder or which is reasonably requested by Owner in connection with any such decision or response, or (ii) delay caused by the existence of reasonable cause to suspect that construction of the Project or Tenant Improvements or any other services provided by Developer hereunder have not been performed in accordance with Construction Documents and other requirements hereunder, in which case Owner-Caused Delay shall not include the amount of additional time reasonably needed by Owner to determine whether such construction or other services conform to all requirements hereunder, so long as Owner proceeds with all reasonable diligence to make such determination. To facilitate timeliness in Owner's communications with Developer over matters relating to design or construction of the Project and to minimize the possibility of Owner-Caused Delay, Developer shall alert Owner to deadlines for approvals, decisions or other responses that Owner must provide hereunder, including, among other methods, attachment of "deadline cover sheets" on any submissions to Owner that require response by a particular deadline or distribution of weekly calendars that show deadlines imposed on Owner. If Developer at any time believes that an instance of Owner-Caused Delay has occurred that has directly caused or will directly cause an increase in Project Costs or extension of the Developer Obligation Date, Developer shall send a written notification to Owner within five (5) days of the occurrence of such alleged Owner-Caused Delay explaining the alleged event that constituted such Owner-Caused Delay, specifying the period of alleged Owner-Caused Delay, describing how the alleged Owner-Caused Delay adversely impacted the Project Schedule and identifying any incremental increase in Project Costs that are identifiable or reasonably foreseeable as a direct result of such Owner-Caused Delay. Any disputes between Developer and Owner over Project Costs attributable to Owner-Caused Delay shall not be a reason to stop or delay construction of the Project and shall be resolved by the parties as expeditiously as possible, either by mutual agreement of the parties or in accordance with the dispute resolution mechanisms described in Section 24 hereof.

"Permits" means all land use approvals, permits and approvals required for construction of the Project.

"Permitted Use" means the intended use of the Project by Tenant for office purposes, parking, retail space and any other lawful use consistent with the provisions of Section 7 of the Project Lease.

"Preliminary Plans and Outline Specifications" are the initial renditions for the Base Shell and Core Building, schedules of which plans and specifications is attached hereto as Exhibits D and E and incorporated herein by this reference.

"Premises" means the entirety of the Building to be constructed on the Building Land together with leasehold interest in the Building Land pursuant to the Building Ground Lease

"Project" means the total design and construction, including all professional design services, and all labor, materials and equipment used or incorporated in such design and construction of (i) the Building to be constructed on the Building Land. The Project shall include work which is consistent with and reasonably inferable from the approved Project Requirements as being necessary to produce the intended results and may include the acquisition of certain light, view or other easements or property interests benefiting the Project not included in the Project Requirements to the extent that the cost thereof is paid from the Tenant's Contingency.

"Project Application for Payment" means the procedures by which requests for payment for Project Costs and other costs shall be made in accordance with Section 9 of this Agreement.

"Project Budget" means the budget for development of the Project attached to this Agreement as Exhibit F, as revised from time to time in accordance with this Agreement.

"Project Contingency" means the contingency by that name set forth in the Project Budget. The amounts of the various line items of the Project Budget are estimates only of the Project Costs to be incurred. To the extent the actual Project Costs in any line item of the Project Budget exceed the amount shown for such line item, Developer shall first allocate amounts in other line items, in which the actual known Project Costs will be less than the amount of the Project Budget, to the line item in which the excess Project Cost has been incurred. Following the allocation by Developer as set forth in the preceding sentence with respect to all line items, Developer is entitled to draw upon the Project Contingency for such excess Project Costs.

"Project Costs" means all costs for the completion of the development, design, permitting and construction of the Project, including, without limitation, all permit fees, all costs of the Base Shell and Core Building, HVAC, electrical and other building systems, all costs of Tenant Improvements, all costs of fixtures, furnishing and equipment described in the Construction Documents, all costs of architectural services provided by the Architect under the Architect's Agreement, all costs of services provided by the Interior Architect under the Interior Design Contract with respect to the Tenant Improvements, all other professional design and other services provided by Contractors or other professionals engaged by the Developer or General Contractor, all amounts paid to General Contractor under the General Construction Contract including all labor, material, and equipment used or incorporated in such design and construction, all amounts paid to other Contractors and subcontractors, if any, under any other Construction Contract or subcontract entered into by Owner upon the written approval of Developer or by the Developer on behalf of and acting as the Owner's agent in connection with the Project, including all labor, material, equipment used or incorporated in such design and construction, services provided by engineers, environmental consultants, surveyors and other professionals and consultants retained by Developer in connection with the Project, Other Costs, Developer's Overhead Allowance, Developer's Fee, insurance (other than Bond insurance), bonds (other than the Bonds), applicable

state and local retail sales, business and occupation and other taxes (including real property taxes and assessments accruing from Commencement of Construction to Substantial Completion of the Project), plus the Project Contingency; excluding only (a) Tenant's Personal Property and any taxes thereon (which shall be paid by Tenant at its sole cost and expense), (b) Financing Costs, (c) costs for art or similar enhancements that are not included in the Project Requirements and not paid from the Tenant's Contingency; (d) costs of acquiring certain light, view or other easements or property interests benefiting the Project that are not included in the Project Requirements and are not paid from the Tenant's Contingency; (e) costs of removing or remediating any Hazardous Substances in, on or emanating from the Building Land in excess of the amount specifically set forth in the Project Budget for environmental remediation; (f) to the extent not reflected in the Preliminary Plans and Outline Specifications, costs of any off-site improvements required as a condition to or in connection with the development or construction of the Project; (g) Costs Not To Be Reimbursed.

"Project Fund" means the fund of that name established under the Indenture for the purpose, among others, of paying Project Costs.

"Project Lease" means the lease agreement between Owner and the Tenant for occupancy of the Project in the form attached hereto as Exhibit C.

"Project Requirements" means the Preliminary Plans and Outline Specifications as set forth in Exhibit G and as otherwise specifically agreed to by Owner and Developer.

"Project Schedule" means the schedule for development and construction of the Project as set forth on Exhibit H to this Agreement, as revised from time to time in accordance with this Agreement, provided, however, that in no event shall the Project Schedule provide for Substantial Completion of the Project to occur later than the date _____, (__) months after Bond Closing without the concurrence of Tenant. The initial Project Schedule is set forth in Exhibit H attached hereto and by this reference incorporated herein.

"Punch List" means a list of items required to be completed prior to Final Acceptance that are minor items which do not affect Owner's ability to lease the Premises to Tenant and do not affect Tenant's ability to use the Premises for the Permitted Use.

"Requirements of Law" means all requirements relating to land and building construction (including those specifically applicable to Tenant's contemplated use of the Premises as an office building), including, without limitation, planning, zoning, subdivision, environmental, air quality, flood hazard, fire safety, accessibility, and other governmental approvals, permits, licenses and/or certificates as may be necessary from time to time to comply with all the foregoing and other applicable statutes, rules, orders, regulations, laws, ordinances, and covenants, conditions and restrictions, which now apply to and/or affect the design, construction, existence, intended use, operation and/or occupancy of the Building Land, the Premises or any part thereof.

"Sale of the Bonds" means execution and delivery by Owner and a responsible bond underwriter of an agreement providing for the purchase and sale of the Bonds on terms consistent with the terms of the Lease and with no conditions to the underwriter's obligation to pay for and accept delivery of the Bonds other than those conditions contained in said agreement between Owner and the responsible bond underwriter.

"Substantial Completion" has the meaning set forth in Section 12 of this Agreement.

"Substantially Complete" or **"Substantially Completed"** means that the Project has been constructed in substantial accordance with the Contract Documents and: (a) all elements required for the functioning of the Project shall be operational and in good working order and condition including satisfying applicable ADA building requirements and the Washington State Law Against Discrimination, RCW ch. 49.60, as well as regulations adopted thereunder; (b) the Project shall be weather tight and waterproof; (c) the fire and life safety systems within the

Project shall be operational and in good working order and condition; (d) the elevators shall operate and function in good working order and condition, but may still require touch up installation and cleaning; (e) the mechanical and electrical systems, including the HVAC system, shall be individually tested and in good working order able to support the Project and shall also be tested to assure that Project systems operate on an integrated basis, but the HVAC system may still require final balancing work; (f) the finish work is substantially completed, including, but not limited to public lobby, elevator, HVAC, plumbing, fire and life safety, sprinkler and electrical systems, doors, partitions, cabinetry, carpet and base, including removal of all construction debris; (g) all site utilities, sidewalks and landscaping are substantially completed and construction barricades and equipment have been removed; (h) the access and security systems for the Project are installed and operational, except in each case for minor Punch List items which do not materially affect use and occupancy of the Project for government offices and parking.

"Tenant" means King County and its successors and permitted assigns as tenant under the Project Lease.

"Tenant Improvement Allowance" means, within the Fixed Price, an allowance of \$_____ to cover the design and construction costs of the Tenant Improvements. If any portion of this allowance is not used, it shall remain the property of Owner. Prior to commencement of construction of the Tenant Improvements under the General Construction Contract, Owner and General Contractor intend to agree upon a guaranteed maximum price for construction of the Tenant Improvements, which guaranteed maximum price shall contain a construction contingency line item. Any excess of the Tenant Improvement Allowance over the guaranteed maximum price (the "Excess Tenant Improvement Allowance") shall, upon agreement of the guaranteed maximum price, be automatically transferred to the Tenant's Contingency.

"Tenant Improvements" means any improvements to the interior of the Building beyond the Base Shell and Core Building, including data wiring, all or which are more specifically described in the Construction Documents.

"Tenant's Contingency" means the contingency in the amount of \$_____ which may be used to cover any changes in the Project resulting from any material improvements or deviation required by Owner from the design or level of quality reflected in the Preliminary Plans and Outline Specifications as set forth in Section 4(i) below or for Tenant Improvements requested by Tenant which exceed the Tenant Improvement Allowance.

"Tenant's Personal Property" means Tenant's furniture, equipment, and movable personal property placed in the Premises; provided, however, that fixtures, furnishing and equipment described in the Construction Documents as being part of the Project are not deemed to be part of Tenant's Personal Property. Tenant shall provide Tenant's Personal Property at Tenant's sole cost and expense.

"Title Policies" shall mean the policy of title insurance issued to Owner upon its leasehold of the Land (herein called the "Title Policy") and the lender's policy of title insurance issued to the Trustee upon the recording of the mortgage or deed of trust in favor of the Trustee (the "Lender's Title Policy").

"Trustee" shall mean a national bank or other financial institution with trust powers selected by Owner to serve as the bond trustee under the Indenture or any duly authorized successor thereto appointed pursuant to the Indenture.

"Unavoidable Delays" means any delay in the performance by Developer or General Contractor of its obligations with respect to construction of the Project caused by strikes (other than

those directly caused by Developer's acts, omissions or failure to negotiate in good faith), acts of God, Unusually Severe Weather Conditions, unavoidable casualties, acts of the public enemy, acts of terrorists, governmental embargo restrictions, or similar causes beyond the reasonable control of Developer or General Contractor, which, after the exercise of due diligence to mitigate the effects thereof, delay construction of the Project, other than such delays resulting from (a) Developer's or General Contractor's failure to comply with the terms and provisions of this Agreement or the General Construction Contracts, (b) increased prices, or (c) unavailability of funds, provided the Fixed Price is paid in accordance with Section 10 of this Agreement. Unavoidable Delays will entitle Developer and General Contractor to an extension of the Developer Obligation Date but will in no way entitle Developer to additional compensation. Nothing contained herein shall prevent Developer from allocating the Project Contingency to increased costs of constructing the Project caused by Unavoidable Delays. In the event of any Unusually Severe Weather Conditions, the length of Unavoidable Delay to become effective under this Agreement as a result of such conditions shall be the period of time (not less than one day) by which Developer's progress in constructing the Project has reasonably been delayed as a result of such Unusually Severe Weather Conditions. Developer shall notify Owner in writing as soon as possible but in no event later than 35 days after any Unusually Severe Weather Conditions have occurred, shall provide in such notice a specification as to which of the listed conditions has occurred and the data supporting such determination, and shall provide an explanation of Developer's position as to the length of Unavoidable Delay to be granted as a result of such conditions, explaining how such conditions delayed Developer's construction progress. Owner shall respond within 10 days thereafter as to whether Owner accepts or disagrees with Developer's position. Any disagreements that cannot be resolved by Developer and Owner shall be resolved in accordance with Section 24 hereof, but work shall continue pending resolution of such dispute.

"Unusually Severe Weather Conditions" means the occurrence of any of the following scenarios of precipitation, low temperature, windstorms, or snow or ice, but only if the building shell has not been sealed from weather and there remains substantial external work or other conditions that are affected by adverse weather and that will adversely affect the Developer's ability to achieve Substantial Completion by the Developer Obligation Date:

- (a) Daily rainfall equal to or greater than .80 inch within any 24 hour period.
- (b) Daily rainfall equal to or greater than .50 inch during any "rainy season month" (i.e., October through June) in which the total monthly rainfall (at the end of such month) is at least 115% but less than 150% of the total average monthly rainfall for such month.
- (c) Daily rainfall equal to or greater than .30 inch during any rainy season month in which the total monthly rainfall (at the end of such month) is at least 150% but less than 200% of the total average monthly rainfall for such month.
- (d) Daily rainfall equal to or greater than .20 inch during any rainy season month in which the total monthly rainfall (at the end of such month) is at least 200% of the total average monthly rainfall for such month.
- (e) Daily maximum temperature less than 35 degrees Fahrenheit for two or more consecutive weekday days which impacts critical components of the work.
- (f) A combination of temperature and precipitation that results in snowfall in excess of 3 inches on a particular day that does not melt and substantially disappear (but for isolated shaded areas) by 7:00 a.m. on the next work day, or that results in a coating of ice during the bulk of the workday (not merely morning frost) that makes

walking, transporting or loading of materials, or operation of equipment or vehicles hazardous or significantly slowed.

(g) Maximum wind gusts exceeding 50 mph at any time during the work day.

(h) Maximum wind gusts exceeding 35 mph during each hour of a continuous four hour period during the work day.

(i) Any other unusually inclement weather condition which causes the construction site to be in a condition such that the General Contractor orders the workers to not work on the construction site.

Weather conditions shall be measured at Sea-Tac International Airport by the Environmental Data and Information Service of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce. However, if Developer wishes to monitor weather at a location on or nearer to the Project site, Developer may make a proposal to install and operate, at its expense through Project Contingency, a weather monitoring station at the Property or in the vicinity of the Property, monitored by an independent consultant, and Owner shall not unreasonably withhold its approval to utilization of the weather data from such closer site so long as the equipment and independent consultant appear to be capable and trustworthy and the results obtained from such monitoring appear to be reasonably reliable.

"Warranty Period" shall mean that period commencing on the date of Substantial Completion of the Project and expiring two (2) years thereafter.

2. Development of the Project.

(a) Fixed Price. Owner hereby retains Developer and Developer shall, in accordance with the terms of this Agreement, develop, oversee and manage the design, permitting and construction phases of the Project in accordance with the terms and conditions of this Agreement. Subject to the terms of this Agreement, and provided the Fixed Price is paid in accordance with Section 9 of this Agreement, Developer warrants (i) the delivery of the Project for a Fixed Price of \$_____, constructed in a good and workmanlike manner and in substantial accordance with the Contract Documents on or before the Developer Obligation Date, free and clear of all liens. Project Costs exceeding the Fixed Price shall be paid by Developer, with Developer depositing any required funds with Trustee pursuant to Section 9(f) below. Upon compliance by Developer with its obligations under this Agreement, Owner shall cause the Trustee to disburse money from the Project Costs Account in the Project Fund (as those terms are defined in the Indenture) to Developer or any other party entitled to receive such disbursement as set forth in Section 9 of this Agreement to pay the Project Costs, until money in an amount equal to the Fixed Price has been disbursed.

(b) Tenant Improvement Allowance. The Fixed Price will include the Tenant Improvement Allowance of _____ Dollars (\$_____) for the design and construction of Tenant Improvements. Notwithstanding any other provision in this Agreement to the contrary, payment for the construction of Tenant Improvements shall be governed by the terms of this Section 2(b). Exhibit I hereto sets forth the dates for delivery of the space plans by which Owner (i) must deliver the plans if Owner wishes to have the Tenant Improvements bid as a part of the Base Shell and Core Building; or (ii) must deliver the plans to avoid potentially jeopardizing the Project Schedule. Owner's failure to meet those dates shall constitute an Owner-Caused Delay that may result in Costs Resulting From Owner-Caused Delay for which Developer shall not be held responsible. Owner shall pay any Costs Resulting From Owner-Caused Delay unless Owner elects to allocate Tenant's Contingency to pay such costs. Any Owner-Caused Delay shall also result in an adjustment of the Developer Obligation Date under Section 7(b) below.

Developer shall work with Owner to develop the pricing on Owner's desired Tenant Improvements. If the total cost of designing and constructing the Tenant Improvements is less than the Tenant Improvement Allowance, then all excess funds in the Tenant Improvement Allowance shall be retained by Owner upon Final Acceptance. If the total cost of designing and constructing the Tenant Improvements exceeds the Tenant Improvement Allowance, such excess costs shall be paid solely by Owner.

(c) Other Costs. Other Costs shall be considered Project Costs but shall not be included in the determination of the Fixed Price. Any portion of Other Costs not used for the Project shall be added to Tenant's Contingency, and any portion of Tenant's Contingency not used for the Project shall be applied as provided in the Indenture. If the cost of the items of work described under the heading "Other Costs" on the Project Budget attached hereto as Exhibit E exceeds \$_____, such excess shall be paid by Owner.

(d) Diligent Efforts; Relationship of the Parties. Developer accepts the relationship of trust and confidence established with Owner by this Agreement and agrees that in providing the services set forth in this Agreement, Developer shall use its diligent efforts and shall furnish its best skill and judgment and shall cooperate with, coordinate, manage, direct and oversee the General Contractor, Architect, Interior Architect, all other Contractors, all other engineers, design consultants, managers and other persons retained in connection with the design, permitting, development and construction of the Project so as to cause Substantial Completion of the Project in an expeditious and economic manner consistent with the best interests of Owner, and otherwise in a good and workmanlike manner and in substantial accordance with the Contract Documents on or before the Developer Obligation Date, free and clear of liens (provided the Fixed Price is paid in accordance with Section 9 of this Agreement). Developer shall perform its services in accordance with the terms of this Agreement, including, without limitation, all services to be provided by Developer as described in Section 5 herein. Developer shall not perform any construction services in connection with this Agreement. By the terms of this Agreement, Developer is not obligated to perform services for which Owner has contracted with a third party without Developer's prior written consent, nor obligated to pay for such services for which Owner has contracted with third parties without Developer's prior written consent, and such services shall be paid for directly by Owner and shall not be considered Project Costs unless they are pre-approved by Developer in writing.

(e) Mutual Cooperation; Liability of Owner. Developer and Owner shall fully and in good faith cooperate with each other to accomplish each of the activities provided herein. Developer acknowledges and agrees that Owner shall have no liability or responsibility whatsoever with respect to the activities provided to be performed by Developer herein, except to pay the Fixed Price pursuant to the terms and conditions contained herein.

(f) Term. The rights and obligations of the Developer and Owner hereunder shall commence on the date of execution of this Agreement and shall continue, subject to early termination pursuant to Section 3(c), until expiration of the Warranty Period, except with respect to those specific obligations of Developer which may survive the Warranty Period.

3. Project Financing.

(a) Issuance of Bonds. Owner intends to issue Bonds in a principal amount sufficient to pay the Project Costs, Financing Costs and other costs payable pursuant to the terms of the Indenture pursuant to and in compliance with the requirements of Revenue Ruling 63-20 and Revenue Procedure 82-26 issued by the Internal Revenue Service (collectively, the "Ruling") and other regulations, interpretations and letter rulings issued by the Internal Revenue Service with respect to such financings. Owner intends to have the payment of principal and interest on the Bonds insured by the Bond Insurer selected by Owner upon recommendation by the underwriter retained by Owner to sell the Bonds. The proceeds of the Bonds shall be used to pay Project Costs (in an amount not in excess of the Fixed Price), Financing Costs and other costs.

(b) Disbursal of Proceeds. A portion of the proceeds from the sale of the Bonds shall be deposited into the Project Fund held by the Trustee and shall be used to pay Project Costs and other costs in accordance with the terms of the Indenture and this Agreement.

(c) Termination of Agreement. In the event the Sale of the Bonds has not occurred on or before _____ 200__, this Agreement shall terminate and neither Owner nor Developer shall have any further rights, duties or obligations hereunder except as provided below, provided that either Owner or Developer may extend the _____, 200__ date by up to three (3) periods of thirty (30) days each by delivering written notice to the other of its intention to extend prior to the then-applicable termination date (provided such extension shall be effective only if the Project Lease is similarly extended in accordance with its terms).

4. Project Design. Developer shall cause design services to be performed by qualified architects, engineers and other professionals recommended by Developer, approved by Owner and paid as part of the Project Costs.

(a) Selection of Development Team for Project. The following entities are intended to be retained in connection with the Project:

- (i) Architect: _____
- (ii) General Contractor: _____
- (iii) Structural Engineers: _____
- (iv) Land Surveyors: _____
- (v) Mechanical Design Build Engineers: _____
- (vi) Geotechnical Engineers: _____
- (vii) Environmental Consultants: _____
- (viii) Interior Architect: _____
- (ix) Electrical Design/Build Engineers: _____

In order to complete the Project, Developer shall have the right to select other professionals as necessary or desirable for the design, permitting, and development of the Project and shall have the obligation to recommend other Contractors for Owner's approval. All amounts paid to the entities outlined above and any others hereinafter engaged by Developer in connection with the performance of its duties and responsibilities under this Agreement, or as agent for Owner, shall be part of the Fixed Price.

(b) Design Contracts. Owner shall enter into the Architect's Agreement with the Architect and the Interior Design Contract with the Interior Architect.

Consistent with the terms and conditions of the respective General Construction Contract, Interior Design Contract and the Architect's Agreement, there shall be no amendment to those or any other design contract or Construction Contract, without the prior written consent of Owner. All rights of Owner and Developer, respectively, under the Architect's Agreement, the Interior Design Contract and the General Construction Contract and any other contract designated by either Trustee or Bond Insurer shall be assigned to Trustee and/or Bond Insurer as appropriate under assignment agreements in form and substance satisfactory to Trustee and Bond Insurer.

Developer shall obtain, at no cost to Owner, the consent of Architect, Interior Architect, General Contractor and other design professionals and Contractors as necessary to each such assignment.

(c) Project Budget. The Project Budget sets forth a detailed itemization by line item and category of all Project Costs, including Tenant's Contingency, Project Contingency, the Overhead Allowance and Developer's Fee. The Project Budget is attached hereto as Exhibit F.

(d) Construction Drawings. Developer shall cause the Architect to prepare the Construction Drawings and Detailed Specifications for the Core Building and cause the Interior Architect to prepare such necessary plans and specifications for the Tenant Improvements, in each case for Developer's review and Owner's approval. The intention of the parties is to cooperate in good faith to provide a completed design which meets all Requirements of Law and is consistent with all Project Requirements and the building quality reflected therein. The Construction Drawings and Detailed Specifications for the Base Shell and Core Building construction and Tenant Improvements shall include, at a minimum, all architectural services set forth under Basic Services in the Architect's Agreement and such other architectural services as may be necessary to provide Construction Documents for the Base Shell and Core Building and Tenant Improvements portions of the Project.

(e) ADA Compliance. Each design contract shall include a provision requiring that upon Substantial Completion of that portion of the work covered by that design contract, the work and the portion of the Project so constructed shall comply with the applicable Americans With Disabilities Act requirements referenced herein.

(f) Owner's Review. Owner may participate in all design meetings with Developer, Architect, Interior Architect and other design professionals as appropriate in the course of the development of all Construction Documents in order to facilitate the approval of such Construction Documents in accordance with the terms of this Agreement. Owner shall promptly review the Project Budget and all Construction Drawings and Detailed Specifications submitted in accordance with this Agreement and shall give Developer written notice within ten (10) business days following its receipt of the Project Budget and/or Construction Drawings and Detailed Specifications of its approval or disapproval thereof, specifying in the case of its disapproval, its reason therefor. Owner shall have the right to disapprove such Construction Drawings and Detailed Specifications which (i) do not meet the Project Requirements, (ii) do not comply with Requirements of Law, (iii) do not comply with previous Construction Drawings and Detailed Specifications in all material respects, or (iv) propose changes in work or materials that would result in a material change in appearance or diminution in quality of the Project. If no objections or comments are received within such ten (10) business day period, then the submittals shall be deemed approved.

(g) Resubmittals. If objections or comments are submitted in writing within the time frame and in accordance with the requirements set forth in the preceding subsection, Developer shall cause the Architect and/or the Interior Architect to make changes in the Construction Drawings and/or Detailed Specifications consistent with reasonable objections or comments made by the Owner and shall resubmit the same to Owner in accordance with the foregoing schedule for further review. The process of resubmittal and review shall continue until the submittals have been approved by all the parties. The final Construction Drawings and Detailed Specifications setting forth in detail the requirements for the construction of the Project which have been approved by Owner are called the Construction Documents. There shall be no material change in the Construction Documents except as set forth in Section 8 below.

(h) Permit and Construction Documents. Developer shall cause the Architect and other design professionals to prepare Construction Documents as required for submittal of the building permit and other permit applications in accordance with Section 6 hereof, and as required for construction of the Project by the Contractors.

(i) Tenant's Contingency. The Fixed Price includes a Tenant's Contingency in the amount of \$_____ which shall be allocated to Project Costs as provided herein. If Owner requires any material improvement or material deviation in the Construction Drawings or the Detailed Specifications from the design or level of quality reflected in the Preliminary Plans and Outline Specifications, any resulting increase in design or construction Project Costs shall be charged against the Tenant's Contingency up to a maximum of \$_____, after which no further design changes shall be permitted hereunder unless Owner agrees to pay for any resulting increase in Project Costs. To the extent that the Construction Drawings and Detailed Specifications are consistent developments of the Preliminary Plans and Outline Specifications, the Fixed Price shall not be adjusted for any changes in Project Costs required to construct the Project in accordance with such Construction Documents. Additionally, at Owner's option, the Tenant's Contingency may be used for the design and/or construction of Tenant Improvements desired by Owner in excess of Tenant Improvement Allowance.

5. Construction Management Services. Developer shall provide Owner with all construction administration and construction management services necessary or desirable to cause Substantial Completion of the Project on or before the Developer Obligation Date in a good and workmanlike manner and in substantial accordance with the Contract Documents, including, without limitation, the following:

(a) Preconstruction Phase.

(i) Developer shall oversee all design work done by Architect, Interior Architect and other design professionals for the design and development of the Project. Developer shall expeditiously review design documents during their development and advise on proposed site use and improvements, selection of materials, building systems and equipment and methods of Project delivery. Developer shall provide recommendations on relative feasibility of construction methods, availability of materials and labor, and time requirements for procurement, installation, construction and factors related to construction costs including, but not limited to, costs of alternative designs or materials, budgets and possible economics.

(ii) Developer shall prepare and periodically update the Project Schedule for Owner's acceptance. Developer shall obtain the Architect's and Interior Architect's approval for the portions of the preliminary Project Schedule relating to the performance of their services. Developer shall coordinate and integrate the Architect's and Interior Architect's services into the Project Schedule and Developer's and Owner's responsibilities with anticipated construction schedules, highlighting critical and long lead time items.

(iii) Developer shall consult with Owner and Architect regarding the Construction Documents and make recommendations whenever design details adversely affect constructibility, cost or schedules.

(iv) Developer shall cause the General Contractor to establish the assignment of responsibilities for temporary Project facilities and equipment, materials and services for common use of the Contractors. Developer shall verify that such requirements and assignment of responsibilities are included in the proposed Contract Documents.

(v) Developer shall cause the General Contractor to determine the division of the Project into individual contracts for various categories of work, including the method to be used for selecting Contractors and awarding Construction Contracts. Developer shall cause the General Contractor to review the Construction Documents as required to provide that (1) the work of the Contractors is coordinated; (2) all requirements for the Project have been assigned to the appropriate Construction Contract; (3) the likelihood of jurisdictional disputes has been minimized; and (4) proper coordination has been provided for phased construction.

(vi) Developer shall prepare a Project Schedule providing for the components of the work and shall consult with the General Contractor in connection with the preparation and updating of the Project Schedule, including phasing of construction, times of commencement and completion required of each Contractor, ordering and delivery of products requiring long lead time, and the occupancy requirements of Owner. Developer shall provide the current Project Schedule to the General Contractor for each set of bidding documents.

(vii) Developer shall work with the General Contractor to expedite and coordinate the ordering and delivery of materials requiring long lead times.

(viii) Developer shall select and coordinate the professional services of surveyors, special consultants and testing laboratories required for the Project.

(ix) Developer shall cause the General Contractor to provide an analysis of the types and quantities of labor required for the Project and shall review with the General Contractor the availability of appropriate categories of labor required for critical phases. Developer shall make recommendations for actions designed to minimize adverse effects of labor shortages.

(x) Following Owner's approval of the Construction Documents, the Developer shall update and submit the latest estimate of Project Costs, Project Budget and the Project Schedule for Owner approval.

(xi) Developer shall direct the General Contractor to develop bidders' interest in the Project, establish bidding procedures, issue bidding documents to bidders and conduct pre-bid conferences with prospective bidders. Developer shall cause the General Contractor to submit the list of prospective bidders for Owner's review. Owner shall have the right to reject any bidder if there exists substantial and reasonable cause for such rejection. Developer shall assist the General Contractor with respect to questions from bidders and the issuance of addenda.

(xii) Developer and General Contractor shall receive bids, prepare bid analyses and award contracts or reject bids.

(b) Construction Phase.

(i) Developer shall administer all Construction Contracts for the Project in cooperation with the Architect.

(ii) Developer shall provide administrative, management and related services to coordinate scheduled activities and responsibility of the Contractors with each other and with those of the Developer, Owner and Architect to manage the Project substantially in accordance with the Project Schedule and Contract Documents.

(iii) Developer shall cause the General Contractor to update the Project Schedule incorporating the activities of the Contractors on the Project, including activity sequences and duration, allocation of labor and materials, processing of shop drawings, product data and samples and delivery of products requiring long lead time and procurement. The Project Schedule shall include Owner's occupancy requirement showing portions of the Project having occupancy priority. Developer shall update and reissue the Project Schedule as required to show current conditions. If an update indicates that the previously approved Project Schedule may not be met, Developer shall cause the General Contractor to take corrective action so as to cause the Project to be Substantially Completed on or before the Developer Obligation Date.

(iv) Developer shall cause the General Contractor to schedule and coordinate the sequence of construction so as to cause Substantial Completion of the Project on or before the Developer Obligation Date.

(v) Developer shall dutifully administer and enforce the Architect's Agreement and the Interior Design Contract and Developer shall cause the General Contractor to dutifully administer and enforce all Construction Contracts with subcontractors and, provided that Owner authorizes Developer to do so and assigns to Developer any rights necessary in connection therewith, Developer shall fully enforce, administer and take such actions as are necessary to implement contracts with the Architect, Interior Architect, and General Contractor. Developer shall notify and consult with Owner regarding any material breaches or defaults by any party to a Construction Contract relating to the Project. Developer shall, with respect to such breach or default by such contracting party, follow the instructions or directions of Owner so long as such instructions or directions do not, in the reasonable professional judgment of Developer, restrict, delay, impair or otherwise jeopardize the Substantial Completion of the Project by the Developer Obligation Date.

(vi) Developer shall develop cash flow reports and forecasts for the Project (including variances between actual and budgeted costs) and provide Owner with copies of same.

(vii) In consultation with the Architect, Developer shall oversee the course of construction and shall conduct such inspections of the course of construction and testing of work to insure that the work of each Contractor is being performed in substantial accordance with the requirements of the Contract Documents in a good and workmanlike manner, free of defects and deficiencies in work, and free and clear of all liens. Developer shall reject all work which does not conform to the requirements of the Contract Documents and cause corrective action to be taken.

(viii) Developer shall transmit to Architect requests for interpretations of the meaning and intent of Construction Drawings and Detailed Specifications and assist in the resolution of questions that arise.

(ix) Developer shall expedite the processing and approval of shop drawings, product data, samples and other submittals.

(x) Section 8 of this Agreement shall control with regard to changes in the work.

(xi) Developer shall record the progress of the Project. Developer shall cause the General Contractor to submit written monthly progress reports to Owner and Developer, including information on each Contractor and each Contractor's work, as well as the entire Project, showing percentages of completion. Developer shall maintain or cause the General Contractor to maintain a daily log, containing a record of weather, each Contractor's work on the site, number of workers, identification of equipment, work accomplished, problems encountered and such other information as Owner may require.

(xii) Developer shall maintain at the Project site or at Developer's offices in Seattle, Washington, for Owner one record copy of all Contract Documents, all drawings, specifications, addenda, change orders and other modifications, in good order and marked currently to record changes and selections made during construction together with approved shop drawings, product data, samples and similar required submittals. Developer shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of the footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. All such records shall be made available to Architect, Interior Architect and Owner upon request and, upon completion of the Project, duplicate originals shall be delivered to Owner.

(xiii) Although Developer shall not be responsible for the purchase of materials, systems and/or equipment, Developer shall assure that the General Contractor is responsible for the delivery and storage, protection and security of such materials, systems and equipment that are part of the Project until such items are incorporated into the Project.

(xiv) Developer shall develop and implement procedures for the review and processing of applications by Contractors for progress and final payments.

(xv) Based on the Developer's observations and evaluations of each Contractor's Application for Payment, the Developer shall review and certify the amounts due the respective Contractors. The Developer shall prepare Project Applications for Payment based on the Contractors' Applications for Payment.

(xvi) Each Project Application for Payment and certification of the Contractor(s)' certificates for payment shall constitute a representation to Owner based on the Developer's overall supervision of the course of construction, inspections conducted at the site, and review of the data comprising the Contractors' Application for Payment that, to the best of Developer's knowledge, information and belief, the work has progressed to the point indicated and the quality of the work is in substantial accordance with the Contract Documents (subject to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by Developer in Developer's Project Application for Payment).

(xvii) Developer shall supervise the final testing and start-up of utilities, operational systems and equipment.

(xviii) When Developer considers each Contractor's work or a designated portion thereof substantially complete, the Developer shall, jointly with the Architect, prepare for the Contractor a list of incomplete or unsatisfactory items (Punch List) and a schedule for their completion. The Developer shall assist Architect in conducting inspections to determine whether the work or designated portion thereof is substantially complete.

(xix) Developer shall cause the General Contractor to coordinate the correction and completion of the work, including all Punch List items, and shall evaluate the completion of the work of the Contractors and make final recommendations to the Architect when the Project or any designated portion thereof has achieved Final Acceptance. Developer shall assist Architect in conducting final inspections of the work.

(xx) Developer shall take such other and further action as may be necessary or desirable to cause the Project to be Substantially Completed on or before the Developer Obligation Date.

6. Permits.

(a) Master Use Permit. A Master Use Permit will be obtained by the Developer.

(b) Permits. Developer shall obtain all Permits necessary to construct the Project. For those Permits yet to be acquired as of the date of the execution of this Agreement, Owner shall have ten (10) business days to review any Permit application Developer intends to submit. Owner's failure to object to terms or conditions of a Permit application shall not be construed as approval of the same but shall constitute Owner's authorization for Developer to submit the Permit application. For those Permit applications already submitted by Developer prior to the execution of this Agreement, Owner shall receive a copy upon request. Owner shall join in any application for Permits as required, at the expense of Developer. Developer shall pursue issuance of such Permits with all due diligence.

(c) Costs. All costs associated with issuance of the Permits shall be Project Costs.

(d) Schedule and Delays. Owner and Developer anticipate issuance of Permits by the City of Seattle and commencement of construction of the Project within the time set forth in the Project Schedule set forth as Exhibit H hereto. The Project Schedule shall be updated by Developer and Owner from time to time as reasonably required to reflect the current status of the

Project. There shall be no increase in the Fixed Price as a result of any delay in issuance of the Permits or commencement or completion of construction of the Project.

7. Construction.

(a) Commencement of Construction. Developer shall cause Substantial Completion of the Project on or before the Developer Obligation Date in a good and workmanlike manner, free from defects in work or materials and in substantial accordance with the Contract Documents, free and clear of all liens, provided the Fixed Price is paid in accordance with Section 9 hereof. As soon as reasonably practical following issuance of the Permits, Developer shall cause Commencement of Construction to occur and to diligently and continuously prosecute such work to Final Acceptance. Developer shall coordinate the sequencing of all construction and shall cause all other Contractors to commence construction of that portion of the work covered under their respective Construction Contracts and diligently and continuously prosecute such work to Final Acceptance. Developer warrants to the Owner that materials and equipment incorporated into the Project shall be new unless otherwise specified.

(b) Delays. The Developer Obligation Date shall be extended to the extent of (i) Unavoidable Delays, provided however that extensions due to Unavoidable Delays shall not exceed ninety (90) days; (ii) Owner-Caused Delays and (iii) delays incurred as a result of the presence of any Hazardous Substances in, on or emanating from Land or the Building Land as of the Effective Date of the Project Lease (as defined therein) in excess of the time specifically provided in the approved Project Schedule for remediation of any such Hazardous Substances. The existence of Unavoidable Delays of up to 90 days shall excuse General Contractor and Developer for resulting delays and changes in the Project Schedule, provided however that there shall not be any adjustment to the Fixed Price for additional costs resulting therefrom. If Substantial Completion of the Project fails to occur by the Developer Obligation Date, as extended pursuant to the first sentence of this Section 7(b), then Developer shall pay to Trustee on the first day of each month an amount equal to the sum of the Monthly Rent payable under the Project Lease, until the earlier of Substantial Completion or termination of the Project Lease pursuant to Section 9.18 thereof; provided, however, that to the extent Owner receives insurance proceeds under the Builders Risk Insurance Policy described in Section 17(b)(iv) below to reimburse Owner for loss of income and rents, such sums shall be credited against Developer's obligation to pay Monthly Rent to the Trustee. The Monthly Rent paid by Developer shall be prorated if a partial month elapses before Substantial Completion of the Project occurs. Upon Final Acceptance, if there are funds remaining in the Project Costs Account (as defined in the Indenture) prior to the final distribution of said Account (i.e., the sharing of contingency money), if Substantial Completion of the Project has failed to occur by the Developer Obligation Date, and if Developer has made the payments it is required to make pursuant to this Section 7(b), the Developer and the Owner, with concurrence by the Tenant, shall determine and direct Trustee to pay to the Developer any additional interest earnings that accrued on the undisbursed Bond proceeds as a direct result of such delay in excess of interest that would have accrued absent such delay.

(c) Guaranteed Maximum Construction Contract. As part of the Fixed Price, the Base Shell and Core Building (which constitutes a portion of the Project) and the Tenant Improvements, subject to Section 2(b), shall be constructed pursuant to the General Construction Contract, containing the Guaranteed Maximum Construction Price, between Owner and the General Contractor. The General Construction Contracts shall contain a provision for payment and performance bonds issued by a surety reasonably acceptable to Owner pursuant to which Owner and Trustee shall be named as obligees pursuant to a rider or riders reasonably acceptable to Owner and Trustee.

(d) Construction Contracts. All Construction Contracts shall include recitations or provisions requiring the following:

(i) Owner intends to lease the Project to Tenant, a public agency, and desires that the Project incorporate and include public art, consistent with the spirit and intent of King County's Public Art Program. Tenant shall have the right to review and approve the process for, and selection of, public art for the Project, which approval shall not be unreasonably withheld; provided, however, that Owner may condition or withhold approval for the installation of any public art in the Project if it would have a material and adverse effect on the construction of the Project or on the Project Schedule.. The cost of any such public art shall not be a Project Cost and shall not be included in the Fixed Price.

(ii) All Contractors and subcontractors employed on the Project shall pay the prevailing rate of wages as defined in Chapter 39.12 of the Revised Code of Washington.

(iii) Provisions for initiating, maintaining and providing supervision of safety precautions and programs in connection with the construction of the Project.

(e) Protection of Persons and Property.

(i) Developer shall be responsible for initiating, maintaining and providing supervision of safety precautions and programs in connection with the construction of the Project.

(ii) Developer shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to: (1) all persons working on the Project construction site and all other persons who may be affected thereby; (2) the Project and materials and equipment to be incorporated therein; and (3) other property at or adjacent to the site.

(iii) Developer shall or shall cause the General Contractor and all other Contractors to give notices and comply with all applicable laws, ordinances, rules, regulations, and orders of public authorities bearing on the safety of persons and property and their protection from damage, injury or loss.

(iv) Developer shall be liable for all damage or loss (other than damage or loss insured under the property insurance) to the Project except to the extent caused by the negligent actions of Owner, its agents or employees or by Tenant.

(f) Insurance During Construction. Insurance shall be provided by Developer, Owner, Architect and Contractors in accordance with the provisions of Section 16 of this Agreement.

(g) Use of Project Contingency. The amounts set forth in the various line items of the Project Budget are estimates only of Project Costs to be incurred. To the extent the actual Project Costs in any line item of the Project Budget exceed the amount shown for such line item, Developer shall first allocate amounts in other line items, in which the actual known Project Costs shall have been less than the amount in the Budget, to the line item in which the excess Project Cost(s) has occurred. Following the allocation by Developer as set forth in the preceding sentence with respect to all line items, except Project Contingency, Developer shall be fully entitled to draw upon the Project Contingency line item of the Project Budget and use the Project Contingency in its entirety, if necessary to pay the Project Costs.

(h) Warranties. Developer shall cause the General Contractor to secure for the benefit of Owner all warranties and guarantees of the work by Contractors, suppliers and manufacturers of components of the Project. Upon Final Acceptance, Developer shall cause the General Contractor to assign such warranties to Owner. After Final Acceptance of the Project and during the Warranty Period, Developer shall assist Owner to enforce any warranties or guarantees with respect to the Project upon request. The General Construction Contract shall provide a warranty of materials and workmanship for a period of two (2) years with respect to each major component of the work following Substantial Completion of the Project. Without increasing the

Fixed Price, Developer and Owner have agreed that Developer shall cause the General Contractor to obtain warranties of longer periods from Contractors and material suppliers for the fixtures, services, or subcontracts set forth in Exhibit K, provided, however, that the Developer shall not be required to assist Owner to enforce any warranties or guarantees that extend beyond the Warranty Period.

(i) Correction of Work. During the Warranty Period, Developer shall promptly correct or cause to be corrected work properly rejected by Owner or known by Developer to be defective or failing to conform to the Contract Documents, whether observed before or after Substantial Completion and whether or not fabricated, installed or completed, and shall correct or caused to be corrected work found to be defective or non-conforming within the Warranty Period. Such costs (to the extent not borne by insurance) shall be Project Costs. It is intended that at Final Acceptance, there shall remain at least \$_____ in the Project Costs Account in the Project Fund to cover these items during the Warranty Period; said \$_____ shall be held by Trustee in trust upon Final Acceptance to be applied toward warranty work in accordance with the General Construction Contract, with any amounts not so expended to be treated as savings in accordance with, and subject to the limitations in, Section 12(g)(ii) below; however if there are no funds left in the Project Costs Account in the Project Fund (including the Project Contingency) to pay for the corrective action, such costs shall be paid by Developer from its own funds.

(j) Stop Work by Owner. If General Contractor fails to correct defective work as required, or persistently fails to carry out work in accordance with the Construction Documents, Owner, by written order, may order Developer and General Contractor to stop the work, or any portion thereof, until the cause for such order has been eliminated.

(k) Developer Default. If Developer defaults or neglects to carry out the work in accordance with the Contract Documents and fails within seven calendar days after receipt of written notice from Owner to commence and continue correction of such default or neglect with diligence and promptness, Owner may give a second written notice to Developer and, if Developer fails within such second seven calendar day period to commence and continue correction of such default or neglect with diligence and promptness, then Owner may, without prejudice to other remedies Owner may have, act to correct such deficiencies. In such case an appropriate change order shall be issued deducting from the Fixed Price the costs of correcting such deficiencies. If the payments then or thereafter due Developer are not sufficient to cover the amount of the deduction, Developer shall pay the difference to the Owner. Such action by the Owner shall be without prejudice to any other rights or remedies to which Owner may be entitled under this Agreement or applicable law.

8. Changes to the Work.

(a) No Changes Without Owner Approval. Following approval of the Construction Documents by Owner there shall be no changes in the work except in accordance with this Section 8. Changes in the work covered by the General Construction Contract and approved by Owner shall be processed in accordance with the General Construction Contract.

(b) Developer Approved Changes in the Work. It is anticipated that there will be field orders and change orders which shall result in changes to the scope of work. Developer shall use its reasonable efforts to apprise Owner of proposed changes in the work and its recommendations regarding them prior to any action being taken. It is anticipated that it may not always be possible to receive Owner's prior approval to these changes in a timely manner. Therefore, field orders and change orders may be approved by the Developer, without prior Owner approval, but only if the changes authorized by these field orders and change orders shall not have the effect of extending the Developer Obligation Date or materially altering the work. As soon as practical, but no later than with the next Project Application for Payment, Developer shall provide Owner with all field orders and/or change orders approved by Developer. For the purposes of this

Section a material alteration would reduce the intended quality of the Project, result in an increase of Owner's operational costs over time, or result in a substitution of any of the systems in the Project (including but not limited to HVAC, plumbing, electrical, elevators, roofing, fire and life safety, infrastructure components). In the case of either a material alteration or a change that would result in failure to Substantially Complete the Project by the Developer Obligation Date, prior written approval by the Owner of the proposed change must be received.

(c) Change Proposals Initiated by Owner. In accordance with the provisions governing Tenant's Contingency, Owner may initiate change proposals which shall be processed in accordance with the General Construction Contract.

9. Payment of Project Costs. Trustee will act as disbursing agent and hold and disburse money on deposit in the Project Fund to pay Project Costs and other costs in accordance with the Indenture and this Agreement. The parties intend that there occur monthly disbursements from the Project Costs Account in the Project Fund to the Architect and Contractors with whom Owner has contracted and to Developer in order that Developer be able to pay other Project Costs. So long as there has not occurred an Event of Default by Developer under this Agreement, such disbursements of money from the Project Costs Account in the Project Fund shall continue until the Fixed Price has been disbursed. Disbursements received by Developer from the Project Costs Account in the Project Fund shall, except as otherwise expressly provided herein, be used solely to pay the Project Costs. Upon Developer's compliance with its obligations under this Agreement, Owner shall take all such action as is necessary and required to obtain such disbursements of money from the Project Costs Account in the Project Fund by the Trustee.

(a) Applications for Payment. Developer shall submit to Owner and Tenant on or before the last business day of each month a Project Application for Payment signed by Developer, which shall also include a pay application submitted by the General Contractor consistent with the terms of the General Construction Contracts. The Project Application for Payment shall request payment of a specified dollar amount, which shall constitute a portion of the Fixed Price, reasonably detailed to reflect the amount of the Project Costs expended in each category of the Project Budget. Such Project Application for Payment shall request the appropriate amount of hard or soft costs based on a percentage of completion basis with respect to such work as of the date of such Project Application for Payment, less retainage being withheld by the General Contractor from any of the Contractors. When retainage that has been previously withheld from a pay application submitted by the General Contractor is to be paid by the General Contractor to a Contractor, it shall be added to the next pay application of the General Contractor submitted to the Developer. Project Costs other than hard and soft construction costs that are incurred or paid on a schedule that is not related to percentage of completion (e.g., property taxes payable twice per year, Developer's Contingency paid only as allocated by Developer to specific costs incurred, Owner's Contingency paid only as allocated by Owner to specific costs incurred, Developer's Fee paid as described in Section 12(c), Developer's Overhead paid as described in Section 12(b), reserves for warranty work paid only after Substantial Completion, the 150% holdback for uncompleted Punch List items, payment of unutilized contingency accounts or construction savings to Owner and/or Developer, etc.) shall be included in the Project Application for Payment only when such items are to be paid in accordance with other provisions of this Agreement, without regard to the percentage completion of the Project. Developer shall also provide a reconciliation between the total of all draw amounts requested (including such draw request) under a Project Application for Payment and the then current Project Budget and include all the information and documentation required to be provided by the General Contractor to the Owner pursuant to the General Construction Contracts, as well as a conditional partial lien release from the General Contractor to become effective upon payment to the General Contractor of the amount of the payment specified in said Contractor's Application for Payment, and Endorsement No. 122 to the Lender's Title Policy and a similar endorsement to the Owner's Title Policy showing no liens or claims of lien; provided,

that if a lien has been filed, Developer and/or General Contractor may resolve such lien in accordance with Section 20 below. Developer shall provide copies of all conditional partial lien releases to the title company issuing the Title Policies and shall execute an indemnity agreement with the title company in a form sufficient to enable the title company to issue the foregoing endorsements.

(b) Payment Procedures. Architect shall certify General Contractor's application for payment. Owner and Tenant shall have the opportunity to attend all meetings between Developer and Contractors at which applications for payments are to be discussed (e.g. Developer shall be available and shall require the General Contractor to be available for a monthly meeting for review of the current month's application for payment, if requested by Owner). Owner and Tenant shall receive with the Project Application for Payment any documentation submitted to Developer supporting the General Contractor's application for payment. So long as Owner and Tenant shall have received the Project Application for Payment on or before the last business day of a calendar month, Owner shall make any objections regarding such Project Application for Payment in writing prior to the twelfth (12th) day of the succeeding calendar month or the Owner shall be deemed to have waived its right to object to such Project Application for Payment. Owner shall be obligated to pay those portions of the Project Application for Payment as to which there was no objection in accordance with Section 10(d) hereof on or before the twelfth (12th) day of the succeeding calendar month. If Owner fails to receive the Project Application for Payment on or before the last business day of the month, Owner shall have a period of at least 12 days from its receipt of such Project Application for Payment to review, approve and pay the same. If Owner objects to any portion of a Project Application for Payment, Owner shall provide detailed written comments explaining the nature of the disapproval, whereupon (i) Project Costs which are approved by Owner shall be paid in accordance with Section 10(d), and (ii) Developer and Owner shall meet within two (2) business days to determine mutually acceptable revisions to the Project Application for Payment. Failure of Developer and Owner to determine mutually acceptable revisions to the Project Application for Payment within the two business day period shall entitle either Owner or Developer to commence the dispute resolution process described in Section 24 hereof and then, if necessary, litigation.

(c) Review and Inspections. Owner, Tenant and/or Trustee shall have the right, but not the obligation, to have such additional independent consulting architects, engineers or any other appropriate consultants retained and paid by such party (not as a Project Cost), to inspect the construction work as it progresses and to review the Contract Documents. Such inspections shall be coordinated with Developer so as to not interfere with or delay construction of the Project and, if Owner receives any written report from any such consultant that Owner believes would be helpful to Developer in administering and enforcing any of the Contracts or in completing the Project, Owner shall provide Developer with a copy of such written inspection report. If during the course of such construction Owner, Tenant and/or Trustee shall determine that the construction is not proceeding in accordance with the Contract Documents, Owner shall give notice in writing to Developer that includes Owner's best efforts to specify the particular deficiency or omission and Developer shall thereupon take, or cause to be taken, all steps necessary to correct same. The failure to give such notice shall not give rise to any liability for Owner and shall not be considered a waiver of any right of Owner under this Agreement, including, without limitation, the enforcement of the representations and warranties of Developer under this Agreement and the requirements with respect to construction of the Project in accordance with the Contract Documents, but such failure may limit any recovery against Developer if such failure is determined to constitute a breach of a contracting party's duty to take reasonable actions to mitigate its damages caused by another party's breach.

(d) Requisition from Project Costs Account. Owner shall execute and deliver the requisition to the Trustee for the amount of the Project Application for Payment, or such undisputed portion thereof under Section 9(b), on or before expiration of the 12-day period specified

in Section 9(b) above. Owner shall take all reasonable steps to cause Trustee to disburse the amount shown on such requisition to Developer for disbursement to applicable Contractors and others on the 10th day of each calendar month and no later than the 12th day of the month if the Project Application for Payment was received by the last business day of the previous month.

(e) Application for Payment for Tenant or Owner Costs. Upon the prior written request of Owner, Developer shall include in any Project Application for Payment a request that the Trustee disburse to Developer, Owner or Tenant, as appropriate, Bond proceeds held in the Tenant's Contingency Account in the Project Fund or Bond proceeds to be applied to the cost of art or similar Building enhancements that are not Project Costs. Developer shall have no right or responsibility to review or determine the appropriateness of the requests for such costs or the amount thereof.

(f) Initial Draw. The Initial Draw shall include a mutually agreed amount to reimburse Developer and Tenant for Project Costs actually incurred or paid by those parties (including, without limitation, fees and costs incurred prior to this Agreement for the General Contractor, Architect and other design professionals) on and before the date of Bond Closing. Developer and Owner shall agree on the maximum amount of the Initial Draw and shall notify Tenant of that agreed maximum amount by no later than three (3) business days prior to the Sale of the Bonds; in addition, Developer and Owner shall agree on the exact amount of the Initial Draw and shall notify Tenant of that agreed Initial Draw amount by no later than seven (7) business days prior to the Bond Closing.

(g) Cost Overruns; Sufficiency of Funds to Complete Construction. Owner shall have no obligation to request any disbursement of money on deposit in the Project Costs Account in the Project Fund unless and until the Project is in balance. The Project shall be deemed to be in balance only when the undisbursed portion of Bond proceeds in the Project Costs Account in the Project Fund together with funds deposited by Developer with Trustee and expected earnings on the Project Costs Account in the Project Fund to the date of their anticipated disbursement after provision for all contingencies shall equal or exceed the amount reasonably estimated by Owner to pay for all work done or to be done but not yet paid for by Developer and all other Project Costs required to cause Final Acceptance of the Project. In the event Owner advises Developer that the Project is not in balance, Developer shall deposit into the Project Costs Account in the Project Fund held by the Trustee the amount necessary to bring the Project into balance, and such funds shall be disbursed in their entirety prior to any further disbursement of Bond proceeds from the Project Costs Account in the Project Fund, provided that if the shortfall in the Project Costs Account is due to Owner's failure to deposit funds as required in connection with any Owner-initiated change orders, Owner shall deposit the necessary funds into the Project Costs Account in the Project Fund held by the Trustee.

10. Other Services by Developer. Services may be performed by the Developer at the written request of Owner which are not included as part of the Project. Such services shall be performed pursuant to a separate written agreement between Owner and Developer.

11. Developer's Fee and Overhead Allowance.

(a) Developer's Fee. The Fixed Price includes a fee payable to Developer in the amount of _____ Dollars (\$_____) (the "Developer's Fee").

(b) Overhead Allowance. Developer shall be paid an Overhead Allowance in connection with the work in the amount of _____ Dollars (\$_____), payable in installments of _____ (\$_____) per month from _____, 200_ (the commencement of pre-construction activity for the Project) through occupancy of the Project by Tenant (which amount shall not be changed notwithstanding any change to the Fixed Price). Such amount shall be paid to Developer as follows:

(i) At Bond Closing, an amount equal to \$_____ multiplied by the number of months elapsed from _____, 200_ to the date of the Bond Closing;

(ii) With each monthly Project Application for Payment prior to Final Acceptance, \$_____ (not to exceed in the aggregate, including the payment following Bond Closing, the sum of \$_____); and

(iii) Any unpaid balance shall be paid with the Final Payment.

(c) Payment of Developer's Fee.

(i) As part of a Project Application for Payment, Developer shall be entitled to a portion of the Developer's Fee as determined by the following formula: (A) determine the percentage that Developer's Fee is of the sum of Shell and Core Construction Costs and Tenant Improvement costs (up to the Tenant Improvement Allowance) to be incurred through Substantial Completion of the Project (together, the "Hard Costs"), as shown in the Project Budget; (B) identify seventy-five percent (75%) of that percentage (the "Payment Percentage"); and (C) for each payment made on the Project Application for Payment submitted after each of the milestones described below has been achieved (as reasonably determined by Owner and Developer), Developer shall be entitled to a portion of its fee equal to (i) the sum of the Hard Costs incurred to date, multiplied by the Payment Percentage; less (ii) the Developer's Fee previously paid to Developer hereunder; provided, however, that Developer shall be entitled to such payment only if the Hard Costs incurred as of any of the milestone dates set forth below do not exceed the percentage of the Hard Costs budgeted to be incurred as of such milestone date, as also set forth below. If the Hard Costs incurred as of a date a milestone is achieved exceed the budgeted percentage of Hard Costs, as set forth below, Developer shall not be entitled to draw that portion of its Development Fee until the next milestone is achieved, and then only if the Hard Costs incurred as of such milestone do not exceed the budgeted percentage of Hard Costs to be incurred by such milestone date. Any unpaid portion of the Developer's Fee shall be paid with the Final Payment.

The milestone dates and percentages of Hard Costs budgeted to be incurred by each such milestone date are as follows:

<u>Milestone</u>	<u>Budgeted Percentage of Hard Costs</u>
1. Completion of foundation for the Building	%
2. Completion of structural steel framing of the Building	%
3. Completion of installation of all exterior curtain walls of the Building	%
4. Substantial Completion of the Project	%

(d) Substantial Completion of the Project. "Substantial Completion" or "Substantial Completion of the Project" means that each of the following events shall have occurred with respect to the Project:

(i) Developer shall have notified Owner in writing that the Project, including the Tenant Improvements, are Substantially Complete in substantial accordance with the Contract Documents, subject only to the completion of normal Punch List items.

(ii) Architect shall have issued its "Certificate of Substantial Completion" (AIA Document G704) stating that the work under the General Construction Contract is sufficiently complete in substantial accordance with the Contract Documents to permit Tenant to occupy or utilize the Project for government office purposes;

(iii) The City of Seattle has issued a temporary certificate of occupancy such that the Tenant is permitted to and could, pursuant to such issued certificate of occupancy, physically occupy the Project for normal government office purposes, including parking in the Building.

(iv) Owner has received evidence from Developer satisfactory to Owner that all real property taxes and assessments on the Project payable by Developer that were due and owing have been paid.

(v) Each Contractor shall have issued its "Certificate of Substantial Completion" together with its "Affidavit of Payment of Debts and Claims," (AIA Forms 706 and 706A) together with partial waivers and releases of lien for work performed prior to the date of its "Certificate of Substantial Completion" in form satisfactory to Owner, from such materialmen, laborers, contractors and subcontractors as Owner, with Tenant's concurrence, may require; and

(vi) Owner, with Tenant's concurrence, shall have accepted the Project as Substantially Complete, subject to completion of the Punch List items agreed upon by Owner, with Tenant's concurrence.

Notwithstanding that Substantial Completion of the Project shall have occurred, Owner shall be entitled to provide Developer with a Punch List, in accordance with the provisions of this Section 12.

(e) Notice of Substantial Completion. Developer shall give notice in writing to Owner at least thirty (30) days prior to the date upon which Developer anticipates the Project shall be Substantially Complete. During the fifteen (15) business day period after the delivery of the estimated completion notice, Owner, Developer, Architect, General Contractor and Tenant shall meet on one or more occasions, if necessary, and tour to inspect and review the Project, as applicable, to determine whether it is Substantially Complete. The parties shall prepare the Punch List to be completed prior to Final Acceptance. The completion of the Punch List shall not be required in order for the Project to be Substantially Complete.

(f) Completion of Punch List Items. Following Substantial Completion, Developer shall cause all Punch List items to be completed promptly in accordance with the Contract Documents.

(g) Final Acceptance. Upon Final Acceptance, Developer shall be entitled to payment of the balance of Developer's Fee as well as all other Project Costs incurred in connection with the work, not to exceed the Fixed Price. Developer shall give notice in writing to Owner at least thirty (30) days prior to the date upon which the Project shall be ready for Final Acceptance. "Final Acceptance" means that each of the following items shall have occurred with respect to the Project:

(i) The City of Seattle, Washington has issued all Temporary Certificates of Occupancy.

(ii) Each Contractor shall have issued its "Certificate of Substantial Completion" together with its "Affidavit of Payment of Debts and Claims" (AIA Forms 706 and 706A) together with final waivers and releases of lien in form satisfactory to Owner from such materialmen, laborers, contractors and subcontractors as Owner may require.

(iii) The parties shall have agreed upon the estimated costs of the Punch List items and 150% of such estimated cost shall be withheld by the Trustee in the Project Costs Account until the Punch List items have been completed to the reasonable satisfaction of Owner. When the Punch List items have been completed, Developer shall notify Owner and, upon Owner's reasonable satisfaction that the Punch List items have been completed, Owner shall deliver its

requisition to the Trustee for payment of the funds withheld by the Trustee under this Section 13(d)(iii).

(iv) Developer shall have submitted its final Project Application for Payment together with evidence reasonably satisfactory to Owner that all construction costs have been paid in full, including evidence of full payment for any personal property installed on the Building Land as part of the Project Costs.

(v) The period for filing construction liens has expired or releases or discharges of construction liens in form and substance satisfactory to Owner have been obtained by the Developer from all Contractors in accordance with all Construction Contracts.

(vi) Architect shall have issued its "Certificate of Final Completion" and Owner shall have received the certificate of any other architect or engineer requested by Owner.

(vii) General Contractor shall have issued a certificate that (1) the Project has been finally completed in substantial accordance with the Contract Documents, and (2) no Hazardous Substances as defined in said certificate were incorporated into the structure of the Project.

(viii) Developer shall have delivered to Owner a written report showing the allocation of Project Costs among the categories of the Project Budget and the remaining specified dollar amount of the Tenant's Contingency, Project Contingency and the undisbursed portion of the Developer's Fee.

(ix) Owner shall have received an endorsement to its Title Policy dated as of and issued on the date of Final Acceptance, which shall insure Owner and Trustee (1) against any liens for labor or materials, whether or not of record, which may have arisen in connection with the construction of the Project, and (2) show no additional exceptions to the Title Policy other than those approved by or arising through Owner.

(x) Developer shall have completed and delivered the matters set forth in Section 14.

(h) Approval of Final Application for Payment. Upon delivery of Developer's Final Application for Payment and other materials set forth above, Owner shall, acting reasonably and in good faith, review and approve the Final Application for Payment on or before that period expiring fourteen (14) business days after receipt of the Final Application for Payment, receipt of notice from Developer that the Punch List matters are complete, and Owner's receipt of the materials set forth in Section 14 of this Agreement. In the event no comments are received within said 14 business day period, Owner shall have waived its right to comment on the Final Application for Payment or to disapprove the completion of the Punch List. If Owner disapproves the Final Project Application for Payment or completion of the Punch List, or any portion thereof, Owner shall provide detailed written comments explaining the nature of the disapproval; whereupon, Developer and Owner shall meet within two (2) business days to determine mutually acceptable revisions to the Final Application for Payment and the completion of the Punch List. Failure of Developer and Owner to determine mutually acceptable revisions to the Final Application for Payment and the completion of the Punch List within the five (5) business day period, shall entitle either Owner or Developer to commence the disputes resolution process described in Section 24. Failure to reach agreement on the amount of the Developer's Final Application for Payment which is approved for payment shall in no way release Developer from its duties and obligations under this Agreement.

(i) Requisition of Final Payment. Owner shall execute and deliver the requisition for Final Payment to the Trustee within one (1) business day following expiration of said 14-business day period, or if Owner disapproves of the final Project Application for Payment, then within one (1) business day after the date of approval of the mutually acceptable revisions to the

final Project Application for Payment or the determination of the disputes resolution process, if applicable. Owner shall take all steps to cause the Trustee to disburse the remaining money in the Project Costs Account, except for any money withheld for completion of the Punch List items under Section 13(d)(iii) and the \$_____ reserved for warranty work as provided for in Section 7(i), up to the Fixed Price in the amount shown on such requisition within one (1) business day of Trustee's receipt of such requisition. In addition, Owner shall in such requisition direct payment of the unexpended Tenant's Contingency and Project Contingency and of the remaining Developer's Fee in accordance with the provisions of Sections 11(c) and 13(h) hereof.

(j) Savings; Disbursement of Tenant's Contingency; Project Contingency.

(i) If all or some portion of the \$_____ Tenant's Contingency is not used for the Project, then the remaining portion of the Tenant's Contingency shall be applied as provided in the Indenture.

(ii) If all or some portion of the Project Contingency (as such amount may be increased or decreased in accordance with the terms of this Agreement) is not used for Project Costs, then two thirds of the unused Project Contingency shall be applied as provided in the Indenture and one-third of the unused Project Contingency, capped at a maximum of \$_____, shall be paid to Developer as part of the Final Payment, as an incentive fee.

(k) Certificate of Occupancy. Beyond Developer's obligation to obtain temporary certificates of occupancy for all space other than any retail space as a condition of Final Acceptance, Developer shall for a period of one (1) year from Substantial Completion of the Project use its best efforts and due diligence in assisting Owner to obtain from the City of Seattle a final, unconditional certificate of occupancy of the Project permitting Tenant to occupy and use the Project for its Permitted Use, including parking in accordance with the conditions imposed by the City of Seattle.

13. Developer Representations; Warranties. Upon Substantial Completion of the Project, Developer shall represent and warrant as follows:

(a) The Project has been completed in substantial accordance with the Contract Documents (as revised by Project change orders set forth in Section 8) and is, and at all times during the Warranty Period shall be, free from defects in workmanship and materials in connection with the construction thereof.

(b) Developer has no knowledge of any structural defects, latent defects or building systems defects within the Project.

(c) The Project has been constructed in accordance with all Requirements of Law, all Permits and all insurance laws, regulations and requirements in effect at the time of construction of the Project.

(d) The Project is served by water, storm and sanitary sewage facilities, telephone, electricity, fire protection and other required public utilities adequate to serve the Project at the time of Substantial Completion of the Project.

(e) The General Contractor, Architect, Interior Architect and all Contractors, suppliers, materialmen and consultants have (subject to Developer's receipt of the payment of the Fixed Price) been paid in full for work related to construction of the Project and there are no liens, encumbrances or other defects affecting title to Land or the Building Land which has been or will be filed against the Building Land and /or the Project with respect thereto, or if any such lien has been filed, Developer and/or General Contractor shall have arranged for a bond to remove such lien in accordance with Section 19 below.

(f) Developer is not aware of any physical defect in the Building Land or the Project which would prevent Owner from leasing the Project to Tenant for the Permitted Use.

(g) The use and operation of the Project for government offices purposes and parking is permitted pursuant to the MUP.

(h) To the best of Developer's knowledge and except as disclosed in writing there are no condemnation, environmental, zoning or other land use regulation proceedings currently instituted which could detrimentally affect the use and operation of the Project for its intended purpose. If during the term of this Agreement any such proceedings have been instituted, Developer shall have used its best efforts and due diligence to resolve them prior to Substantial Completion.

(i) Developer has provided Owner with prompt notice of any special assessment proceedings affecting the Building Land.

(j) The Project does not encroach onto adjoining land or onto any easements and there are no encroachments of improvements from adjoining land onto the Building Land. The location of the Project does not violate any applicable setback requirements. The Building Land is not located in a flood zone.

(k) Except as disclosed to Owner in writing, there is no litigation pending, or to the best knowledge of Developer, threatened, with respect to the Project for matters undertaken by Developer under this Agreement.

(l) To the best of Developer's knowledge and except as disclosed in writing, there are no Hazardous Substances located in, on, under or affecting the Building Land or the Project or any Hazardous Substances incorporated into the structure of the Project.

(m) Prior to Substantial Completion, Developer has removed or remediated and properly disposed of all known Hazardous Substances first existing on the Land following the Commencement of Construction of the Project and if applicable, received a no further action letter from the appropriate governmental agency with respect to such Hazardous Substances, provided the foregoing shall not make the Developer responsible for the removal or remediation of any Hazardous Substances that the County is obligated to remove or remediate under the Building Ground Lease.

(n) To the best of Developer's knowledge, after due and diligent inquiry, all Permits necessary for the construction, use and occupancy of the Project have been obtained and are in full force and effect.

Each of the foregoing warranties with respect to the Project shall expire and be of no further force or effect, unless Owner shall have made a claim based upon an alleged breach of such warranties by Developer on or before the expiration of the Warranty Period; however such expiration shall not otherwise limit Owner's rights and remedies hereunder. In the event Owner alleges a breach of any of the foregoing warranties, Owner shall give Developer written notice of any such allegation together with a detailed explanation of the alleged breach ("Owner's Warranty Claim"). Developer shall, within thirty (30) days of receipt of Owner's Warranty Claim, proceed to commence to cure the circumstances specified in Owner's Warranty Claim, or provide Owner with written notice of Developer's dispute of Owner's Warranty Claim. If Developer commences a cure or correction of the matter alleged in Owner's Warranty Claim, Developer shall proceed reasonably diligently and promptly to complete such cure or correction, and the Warranty Period for the particular matter shall be extended for the period necessary to complete cure or correction.

Developer shall warrant neither artist-made materials included in the Project nor those recycled construction products which Owner has directed Developer to include in the Project over Developer's prior written objections.

14. Developer Obligations. On or before Final Acceptance of the Project, Developer shall obtain and submit to Owner, the following:

(a) As-Built Plans. A complete set of final as-built plans and specifications prepared by General Contractor for the Project. Tenant Improvements will be provided on CAD.

(b) Manuals. All technical and service, instruction and procedure manuals relating to the operation and maintenance of all HVAC systems and other mechanical devices and equipment installed in the Project, except insofar as relating to Tenant's Personal Property.

(c) Warranties. An assignment and delivery of all warranties, guarantees, maintenance contracts, and machinery and equipment warranties received by Developer from the General Contractor or any subcontractor thereof, or any supplier, materialmen or manufacturer relating to the Project; provided, however, that so long as Developer's warranty set forth in Section 13 herein remains in effect, and so long as Developer is not in default of its obligations under this Agreement, Developer reserves the right, notwithstanding the assignment and delivery of such warranties hereunder to Owner, to fully enforce all such warranties in the place and stead of Owner.

(d) Permits and Licenses. The originals (if not posted at the Project) of all Permits, licenses and other approvals necessary for the occupation, use and operation of the Project.

(e) As-Built Survey. An as-built Survey of the Building Land showing the location of all improvements constructed thereon.

15. Indemnification.

(a) Developer's Indemnification. The Developer shall protect, defend, indemnify, and save harmless the Owner, Trustee, Bond Insurer, Tenant, and their respective officers, officials, employees, and agents, from any and all claims, demands, suits, penalties, losses, damages, judgments, or costs of any kind whatsoever (hereinafter "claims"), arising out of or in any way resulting from the Developer's officers, employees, agents, and/or subcontractors of all tiers, acts or omissions, performance or failure to perform this Agreement, to the maximum extent permitted by law or as defined by RCW 4.24.115, as now enacted or as hereinafter amended.

Developer's obligations under this Section 15 of this Agreement shall include, but not be limited to:

(i) The duty to promptly accept tender of defense and provide defense to Owner at Developer's own expense.

(ii) The duty to indemnify and defend Owner from any claim, demand, and/or cause of action brought by or on behalf of any of Developer's employees, or agents. The foregoing duty is specifically and expressly intended to constitute a waiver of Developer's immunity under Washington's Industrial Insurance Act, RCW Title 51, as respects the Owner only, with a full and complete indemnity and defense of claims made by Developer's employees. The parties acknowledge that these provisions were mutually negotiated and agreed upon by them.

(iii) To the maximum extent permitted by law, Developer shall indemnify and defend Owner from and be liable for all damages and injury which shall be caused to owners of property on or in the vicinity of the construction of the Project or which shall occur to any person or persons or property whatsoever arising out of this Agreement, whether or not such injury or damage is caused by negligence of the Developer or caused by the inherent nature of the construction of the Project.

(iv) In the event the Owner incurs any judgment, award, and/or costs arising therefrom, including attorneys fees, to enforce the provisions of this Section, all such reasonable fees, expenses, and costs shall be recoverable from the Developer.

Notwithstanding the provisions contained in this subsection above, Developer's obligation to indemnify Owner shall not extend to any claim, demand or cause of action arising or in connection with the negligence, intentional acts or breach of this Agreement by Owner, Trustee, Tenant or their respective agents or employees.

(b) Owner's Indemnification. If prior to Final Acceptance, Owner exercises its rights to enter or allow Tenant to enter upon the Project and occupy any portion of the Project, Owner shall protect, defend, indemnify, and save harmless Developer, Tenant, Trustee, Bond Insurer and their respective officers, officials, employees, and agents, from any and all claims, demands, suits, penalties, losses, damages, judgments, or costs of any kind whatsoever (hereinafter "claims"), arising out of or in any way resulting from Owner's negligence to the maximum extent permitted by law.

Notwithstanding the previous paragraph contained in this subsection above, Owner's obligation to indemnify Developer shall not extend to any claim, demand or cause of action arising or in connection with Developer's negligence, intentional acts or breach of this Agreement.

(c) Notice of Claim. Any party making a claim for indemnification pursuant to this Section 15 (an "Indemnified Party") must give the party from whom indemnification is sought (an "Indemnifying Party") written notice of such claim (an "Indemnification Claim Notice") promptly after the Indemnified Party receives any written notice of any action, lawsuit, proceeding, investigation or other claim (a "proceeding") against or involving the Indemnified Party by a government entity or other third party, or otherwise discovers the liability, obligation or facts giving rise to such claim for indemnification; provided that the failure to notify or delay in notifying an Indemnifying Party will not relieve the Indemnifying Party of its obligations pursuant to this Section 15 except to the extent that the Indemnifying Party's ability to defend against such claim is actually prejudiced thereby. Such notice shall contain a description of the claim and the nature and amount of such loss (to the extent that the nature and amount of such loss is known at such time).

16. Insurance Requirements. (May be adjusted)

(a) Developer's Insurance. By the date of the execution of this Lease Agreement, Developer shall procure and maintain, at a minimum, for the duration of this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the performance of work hereunder by the Developer, its agents, representatives, employees and/or subcontractors. The cost of such insurance shall be paid by the Developer or its subcontractor. Coverage shall be at least as broad as:

(i) General Liability: Insurance Services Office form number (CG00 001) covering Commercial General Liability, with a limit of not less than; \$5,000,000 combined single limit per occurrence, \$5,000,000 aggregate.

(ii) Automobile Liability: Insurance Services Office form number (CA 00 01) covering Business Automobile Coverage, symbol 1 "any auto"; or the combination of symbols 2, 8, and 9, with a limit of not less than; \$1,000,000 combined single limit per occurrence.

(iii) Workers' Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, statutory limits.

(iv) Employer's Liability or "Stop Gap": The protection provided by the Workers' Compensation Policy, Part 2 (Employer's Liability) or, in states with monopolistic state funds,

the protection provided by the "Stop Gap" endorsement to the General Liability Policy in the amount of at least \$1,000,000.

During the period of construction, Developer as construction manager shall also provide:

(v) Builders Risk Insurance: Insurance Services Office form number (CP 00 02 Ed. 10-90) Builders All Risk Coverage Form covering all work to be done on the Property for the full 100% replacement cost of all such improvements. Coverage shall be provided for (i) the perils of earth movement and flood; (ii) resultant damage from errors in design, plans, specifications, faulty workmanship, materials and construction; (iii) "extra expense"; (iv) all materials to be stored offsite and while in transit to the jobsite; (v) "cold testing" of all building systems; (vi) Owner's and Developer's loss of use of the Property due to delays in Project completion caused by covered peril losses to the Project, including loss of income and rents and soft costs such as interest on the Bonds, real estate taxes and insurance premiums; (vii) the increased cost of construction, debris removal and demolition due to the operation of building laws and code upgrades; and (viii) direct physical damage to the Project and loss of use caused by an off premises power interruption. Coverage shall not be provided for Tenant's Personal Property and art not installed by the General Contractor. The policy shall include a waiver of subrogation provision, shall grant permission for partial occupancy of the facilities without having a detrimental affect on the coverage provided, and shall contain a separate debris removal limit of liability which is separate from, in addition to, and not part of the overall policy limit of liability. Notwithstanding the foregoing in this Section 16(b), Developer shall have the required Builder's Risk Policy in place no later than Commencement of Construction. The Builder's Risk Policy shall include Developer, General Contractor and its subcontractors, other Contractors, and Owner as insureds in an amount equal to their interest with a loss payable clause in favor of Trustee. Developer shall keep the Builder's Risk Policy in place from Commencement of Construction to the Commencement Date defined in the Building Lease.

(b) Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by Owner. The deductible and/or self-insured retention of the policies shall be the sole responsibility of Developer.

(c) Other Insurance Provisions. The insurance policies required by this Agreement are to contain or be endorsed to contain the following provisions where applicable:

(i) Liability Policies:

(A) Owner and Tenant, their officers, officials, employees and agents are to be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Developer in connection with this Agreement.

(B) Developer's insurance coverage shall be primary insurance as respects Owner and Tenant, their officers, officials, employees and agents. Any insurance and/or self-insurance maintained by Owner and/or Tenant their officers, officials, employees and/agents shall not contribute with Developer's insurance or benefit Developer in any way.

(C) Developer's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(ii) All Policies. Coverage shall not be canceled until after forty-five (45) days' (10 days' for non-payment) prior written notice has been given to Owner.

(iii) Acceptability of Insurers.

(A) Unless otherwise approved by Owner and Tenant, insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's, with minimum surpluses the equivalent of Best's surplus size VIII.

(B) If, at anytime, any of the foregoing policies shall fail to meet the above minimum standards, Developer shall, upon notice to that effect from Owner, promptly obtain a new policy, and shall submit the same to Owner, with certificates and endorsements, for approval.

(iv) Verification of Coverage. Developer shall furnish Owner with certificates of insurance and endorsements required by this Agreement. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer. The certificates are to be on standard insurance industry Acord form 25-S with required endorsements attached and are to be received and approved by Owner prior to the commencement of activities associated with this Agreement. Owner reserves the right to require Developer to deliver complete certified copies of all required policies at any time.

(v) Subcontractors. Developer shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages provided by subcontractors as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein.

(vi) For All Coverages.

(A) Each insurance policy shall be written on an "occurrence" form, excepting that insurance for professional liability, errors and omissions, when required, may be acceptable on a "claims made" form.

(B) If coverage is approved (if approval is required above) and purchased on a "claims made" basis, Developer warrants continuation of coverage, either through policy renewals or the purchase of an extended discovery period, if such extended coverage is available, for not less than three years from the date of completion of the work which is subject to said insurance.

(C) By requiring such minimum insurance, Owner and/or Tenant shall not be deemed to, or construed to, have assessed the risks that may be applicable to Developer associated with this Agreement. Developer shall assess its own risks and, if it deems appropriate and/or prudent, maintain greater limits or broader coverage.

(D) Nothing contained within these insurance requirements shall be deemed to limit the scope, application and/or limits of coverage afforded, which coverage will apply to each insured to the full extent provided by the terms and conditions of the policy(ies). Nothing contained within this provision shall affect and/or alter the application of any other provision contained within this Lease Agreement.

(d) Owner's Insurance. By the date of the execution of this Agreement between the Owner and the Developer, the Owner shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with the performance of work hereunder by the Owner, its agents, representatives, employees and/or subcontractors. The cost of such insurance shall be paid by the Owner. Coverage shall be at least as broad as:

(i) General Liability: Insurance Services Office form number (CG00 001 Ed. 11-88) covering Commercial General Liability, with a limit of not less than: \$1,000,000 combined single limit per occurrence, \$2,000,000 aggregate.

(ii) Workers' Compensation: Workers' Compensation coverage, as required by the Industrial Insurance Act of the State of Washington, statutory limits.

(e) Other Insurance Provisions. The insurance policies required by this Agreement are to contain or be endorsed to contain the following provisions where applicable:

(i) Liability Policies: The Owner, the Tenant and their respective officers, officials, employees and agents are to be covered as additional insureds as respects liability arising out of activities performed by or on behalf of the Developer in connection with this Agreement.

(A) To the extent of the Developer's negligence, insurance coverage shall be primary insurance as respects the Owner, its officers, officials, employees and agents. Any insurance and/or self-insurance maintained by the Owner, its officers, officials, employees and/agents shall not contribute with the Developer's insurance or benefit the Developer in any way.

(B) Developer's insurance shall apply separately to each insured against whom a claim is made and/or lawsuit is brought, except with respect to the limits of the insurer's liability.

(ii) All Policies: Coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except by the reduction of the applicable aggregate limit by claims paid, until after forty-five (45) days prior written notice has been given to the Owner and Trustee.

(iii) Acceptability of Insurers: Unless otherwise approved by the Owner and Bond Insurer, all insurance is to be placed with insurers with a Best's rating of no less than A:VIII, or, if not rated by Best's, with a rating in one of the two highest categories maintained by Standard & Poor's Rating Group and Moody's Investors Service.

If at any time any of the foregoing policies shall be or become unsatisfactory to the Owner, due to a change in form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Owner, the Developer shall, upon notice to that effect from the Owner, promptly obtain a new policy, and shall submit the same to the Owner, with certificates and endorsements, for approval.

(f) Verification of Coverage. The Developer shall furnish the Owner with certificates of insurance and endorsements required by this Agreement. The certificates and endorsements for each policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms reasonably approved by the Owner and are to be received and approved by the Owner prior to the commencement of activities associated with this Agreement. The Owner reserves the right to require complete certified copies of all required policies at any time.

(g) Subcontractors. The Developer shall include all subcontractors as insureds under its policies, or shall furnish separate certificates of insurance and policy endorsements from each subcontractor. Insurance coverages provided by subcontractors as evidence of compliance with the insurance requirements of this Agreement shall be subject to all of the requirements stated herein (provided builders risk coverage must be carried only by the General Contractor).

(h) Factory Mutual Engineering Plan Review. Developer shall submit to Factory Mutual Engineering Association or other mutually acceptable entity ("Factory Mutual"), for its review,

plans of all elements of the building design and construction, including but not limited to: seismic and wind loading, roofing and HVAC systems, fire protection and alarm systems, and boiler systems (if any). Plans shall be submitted for review at the 90% design phase. All Factory Mutual recommendations shall be immediately shared with Owner, and Owner and Developer shall work together with Factory Mutual to reasonably incorporate those recommendations into the Project design. Developer is obligated under this Agreement to design and cause to construct the Project in compliance with Requirements of Law. However, Owner and Developer acknowledge that the Fixed Price may not include the cost of incorporating the recommendations of Factory Mutual, and if Owner elects to incorporate any of the Factory Mutual recommendations and such changes increase Project Costs, Owner shall bear the costs of those changes.

Upon completion of the fire protection system installations, one copy of the Contractor's Materials and Test Certificate shall be forwarded to Factory Mutual's District Office for their records:

Factory Mutual Engineering Association
601 108th Avenue N.E., Suite 1400
Bellevue, Washington 98004
Telephone: (425) 455-5333

17. Representatives.

(a) Developer Representatives. Developer shall consult with Owner on initial assignments of personnel assigned to the Project. Owner agrees that the persons with overall responsibility for the work for the Project for the Developer shall be _____. The Project Manager shall be _____. Owner shall have the right to approve any changes in the personnel named above, such approval not to be unreasonably withheld.

(b) Owner Representative. Owner designates _____ as Owner's Representative authorized to act on the Owner's behalf with respect to the Project. Owner shall promptly render decisions to avoid delay in the orderly process of design and construction of the Project. Owner shall communicate with the Contractor and the Architect only through Developer. Owner's Representative may be changed by Owner from time to time.

18. Accounting, Inspection and Audit.

(a) Accounts. Developer shall keep such full and detailed accounts as may be necessary for proper financial management under this Agreement.

(b) Inspection and Audit. Owner may, at its sole discretion, from time to time whether before or after Final Acceptance or termination of this Agreement inspect all books and records of Developer or any Contractor relating to the Project and/or elect to have an audit conducted to verify Project Costs through the date of the latest progress payment. If Owner so elects to conduct such an audit, it shall give notice to Developer, and such audit shall be conducted as soon as is reasonably feasible thereafter, but progress payments to Developer shall not be delayed pending the outcome of the audit. Such audit shall be conducted by an auditor selected by Owner, and Owner shall, except as hereinafter provided, pay the cost of such audit. Developer agrees to cooperate with the auditor and make available for examination at its principal office all of its books, records, correspondence and other documents deemed necessary to conduct the audit by the auditor. If the audit reveals a variation of one percent (1%) or more of the then Project Costs, Developer shall pay the cost of the audit, not to exceed \$10,000.

(c) Preservation of Records. Developer shall preserve all records for a period of six (6) years after Final Payment hereunder; provided, however, if at any time prior to the expiration of seven (7) years after Final Payment, Developer proposes to dispose of any Contract Documents related to the Project, Developer shall deliver the same to Owner for disposition by Owner.

19. Construction Liens. Upon Final Acceptance of the Project and upon Owner's request during the progress of the Project, Developer shall submit evidence that all payrolls, material bills and other indebtedness relating to the work have been paid. If at any time there shall be appropriate evidence of any lien or claim for which, if established, Owner shall be liable, or which would constitute a lien on the Project, and which is chargeable to Developer, Contractor or one of its subcontractors, upon written request by Owner, Developer or Contractor shall furnish a bond in form and amount satisfactory to remove such lien from the public records. If any potential lien claimant gives notice to Trustee in accordance with the provisions of RCW 60.04.221, there shall be no further disbursement of Bond proceeds until Developer shall have provided Trustee and Owner with a bond or other security in accordance with RCW 60.04.221(5), to the amount claimed under the lien or notice until resolution of such dispute and payment of such lien, agreement with such potential lien claimant that such notice is withdrawn, or a court declaration that such notice is void in accordance with the provisions of RCW 60.04.221(9). Developer shall notify Owner and Trustee upon the filing of any lien or the service of any notice in connection with the Project.

20. Priority Agreements. Developer shall require the General Contractor to subordinate its lien rights, by agreement in form and substance satisfactory to Owner, to the lien of mortgage(s) securing the Bonds in favor of Trustee and Bond Insurer and their respective successors or assigns, and shall use its best efforts to obtain a similar subordination from all subcontractors under this Agreement. Any subcontractor which refuses to so subordinate its lien rights must be specifically approved in writing by Owner.

21. Damage and Destruction; Condemnation.

(a) Damage and Destruction. After the happening of any casualty to the Project, Developer shall give Owner, Tenant and Trustee prompt written notice thereof generally describing the nature and cause of such casualty and the extent of the damage or destruction to the Project. Developer and Owner acknowledge, agree and assign all insurance proceeds which Developer or Owner may be entitled to receive prior to Final Acceptance of the Project with respect to damage or destruction to the Project to Trustee for deposit into the Project Fund held by Trustee under the Indenture, and the insurance carrier is hereby irrevocably instructed in accordance herewith. Such insurance proceeds shall be used to pay Project Costs, including increases in the Project Costs caused by such casualty. If, prior to the Substantial Completion of the Project, damage or destruction occurs to the Project, Developer shall proceed diligently to reconstruct and restore the Project in accordance with the Contract Documents and the provisions of this Agreement. Insurance proceeds deposited in the Project Fund shall be disbursed to Developer in accordance with the provisions of Section 9 herein for payment of progress payments for payment of the costs to repair and restore the Project. All costs of such repair or restoration of the Project exceeding the amount of the insurance proceeds shall be paid by Developer.

(b) Condemnation. In the event of a partial condemnation of the Project to the extent that the Project may still be constructed in accordance with the Contract Documents, or may be constructed in accordance with the Contract Documents as modified by changes acceptable to Owner and Developer, Developer shall proceed diligently to construct the Project in accordance with the Contract Documents, as modified, if applicable. Any such partial condemnation proceeds shall be deposited in the Project Fund and disbursed in accordance with the provisions of Section 9 above. Condemnation proceeds shall be disbursed for such purposes whether or not such disbursements exceed the Fixed Price. In the event of a condemnation of all of the Project or so much thereof that the Project may no longer be constructed in accordance with the Contract Documents, this Agreement shall terminate, Developer shall be paid for all costs incurred as of the date of such condemnation (including costs that Developer is obligated to pay third parties as of that date, together with a prorata portion of the Developer's Overhead and the Developer's Fee), and the parties shall have no further obligations hereunder. In such event, after Developer has

been paid in accordance with the foregoing sentence, all condemnation proceeds shall be paid applied by the Trustee pursuant to the Indenture.

22. Payment of Taxes/Assessments.

(a) Real Property Taxes. Any and all real property taxes and assessments (including leasehold excise tax) levied against the Building Land and the Project or any portion thereof shall be paid by Owner until the Commencement of Construction. Developer shall pay all such taxes and assessments from the Commencement of Construction until Substantial Completion of the Project with respect to taxes and assessments levied on the remainder of the Project.

(b) Other State and Local Taxes. Developer shall pay any and all state and local taxes assessed in connection with the Project (other than real property taxes and assessments as provided in Section 22(a) above), including, but not limited to, state and local retail sales taxes and business and occupation taxes as part of the Fixed Price. Developer shall complete all necessary tax returns relating to such taxes and file the same with the applicable state or local governmental agency and remit, on or before the date such tax payment is due, payment of such state and local taxes to the proper taxing authority.

23. Default.

(a) Developer Default. The following events shall constitute an "Event of Default" by Developer:

(i) If Developer shall fail to perform any material obligation under this Agreement;

(ii) If Developer persistently or repeatedly refuses or fails to cause to be supplied to the Project enough properly skilled workers or proper materials to complete the Project, including Tenant Improvements, or if Developer ceases work on the Project for a period of fourteen (14) consecutive days (subject to Unavoidable Delays);

(iii) If Developer misappropriates any funds received by Developer pursuant to the provisions of this Agreement;

(iv) If Developer persistently disregards and fails to comply with laws, ordinances or rules, regulations or orders of a public authority having jurisdiction over the Project.

(v) If, due to the actions of Developer, any Permit required for construction of the Project shall be revoked or canceled;

(vi) If there shall occur any lien or other encumbrance on the Building Land or the Project caused by Developer which is not bonded and removed in accordance with Section 19 above;

(vii) If there shall have occurred defective workmanship or materials within the Project which is not cured within the time period provided in Section 7 of this Agreement;

(viii) If Developer shall have assigned, pledged or encumbered its rights, duties or obligations under this Agreement in violation of Section 25 of this Agreement;

(ix) If any warranty made by Developer as set forth in Section 13 shall be untrue or breached in any material respect; or

(x) If Developer files a petition for bankruptcy or if it makes a general assignment for the benefit of Developer's creditors, or if a receiver is appointed on account of Developer's insolvency and any such petition or appointment is not dismissed within sixty (60) days.

(b) Owner Remedies upon Developer Event of Default. Upon any Event of Default by Developer, Owner shall give Developer written notice of the same, whereupon following receipt of such written notice Developer shall have thirty (30) days within which to commence all necessary action to cure any such Event of Default, (and if such cure is commenced, proceed to diligently complete such cure within a reasonable period of time not to exceed 60 days), except with respect to Events of Default set forth in Section 23(a)(iii) and (viii) for which the cure period shall be ten (10) business days, or Section 23(a)(x) for which no cure period exists beyond the time period stated therein; provided however, that such cure period shall not apply to failure of Developer to achieve Substantial Completion of the Project on or before the Developer Obligation Date for the Project. In the event Developer fails to cure such Event of Default within the time period set forth above, Owner shall be entitled to the following remedies:

(i) To take over and complete the Project. Owner is hereby irrevocably appointed attorney-in-fact (the appointment being coupled with an interest) to incur obligations, enforce contracts or agreements theretofore made by Developer and to do any and all things that are necessary and proper to complete the Project and be entitled to use the undisbursed Project Fund proceeds to pay Project Costs;

(ii) In addition to a claim for damages for such breach or default, and in addition to and without prejudice to any other right or remedy available under this Agreement or at law or in equity, the right to demand specific performance of this Agreement;

(iii) To withhold approval of further disbursement of Bond proceeds;

(iv) Bring an action for damages; or

(v) Terminate this Agreement without liability upon ten (10) days written notice.

(c) Owner Default. The following shall constitute an "Event of Default" by Owner:

(i) Owner fails to cause Trustee to make disbursements to Developer of any sum of money owed to Developer pursuant to this Agreement as and when due, including without limitation, all monies due and owing from the Project Costs Account unless Developer shall have committed an Event of Default as set forth in Section 23(a) above;

(ii) Owner shall have assigned, pledged or encumbered its rights, duties or obligations under this Agreement in violation of Section 25; or

(iii) Owner shall have failed to perform any other material obligation under this Agreement.

(d) Developer Remedies Upon Owner Event of Default. Upon any Event of Default by Owner, Developer shall give Owner written notice of the same. Upon receipt of such written notice Owner shall have ten (10) business days to cure any such Event of Default. In the event Owner fails to cure such Event of Default within said 10 day period, Developer shall be entitled to stop all work relating to the Project, if Developer so desires and shall further be entitled to pursue its rights and remedies at law and in equity under this Agreement, including without limitation, specific performance of Owner's obligations hereunder.

(e) Remedies Not Exclusive. No remedy conferred upon either party in this Agreement is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

24. Disputes. Owner and Developer agree to follow the independent resolution process set forth in this Section 24 to resolve disputes regarding preparation of the Construction

Drawings and Detailed Specifications and changes to Construction Documents in an economic and time efficient manner so that such documents conform to the requirements of this Agreement, the Project Schedule is not adversely impacted, and the Project as constructed will satisfy the Project Requirements. In the event that a dispute arises between Owner and Developer during the design or construction of the Project regarding the adequacy of any Drawings or Specifications or the responsibility for any costs associated with any design development, addition or change (e.g., whether any design development is consistent with and reasonably inferable from the Project Requirements), the parties shall attempt to resolve such dispute as expeditiously as possible and shall cooperate so that the progress of the design and construction of the Project is not delayed. If, however, the parties are unable to resolve the dispute within three (3) business days, either party may, by delivering written notice to the other and the Bond Insurer, refer the matter to a dispute resolution mediator as set forth on the attached Exhibit J.

25. Miscellaneous.

(a) Waiver. Any waiver by either of the parties of any breach of any covenant herein contained to be kept and performed by the other party shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the damaged party from declaring a forfeiture for any succeeding breach, either of the same condition or covenant or otherwise.

(b) Neutral Authorship. In connection with the execution and delivery hereof, each party has been represented by counsel. Each of the provisions of this Agreement has been reviewed and negotiated, and represents the combined work product of both parties hereto. No presumption or other rules of construction which would interpret the provisions of this Agreement in favor of or against the party preparing the same shall be applicable in connection with the construction or interpretation of any of the provisions of this Agreement.

(c) Severability. If any portion or portions of this Agreement is declared void or unenforceable, it shall not affect the other provisions of this Agreement.

(d) Relationship of Parties. Developer and Owner shall not be construed as joint venturers or general partners, and neither shall have the power to bind or obligate the other party except as set forth in this Agreement. Nothing herein shall be construed as reserving to Owner the right to control Developer's business.

(e) No Third Party Rights. The provisions of this Agreement are intended solely for the benefit of, and may only be enforced: (i) by the parties hereto and their respective successors and assigns, including, as to Owner, Trustee and Bond Insurer, and (ii) with respect to rights expressly granted to Tenant in this Agreement, by Tenant. None of the rights or obligations of the parties herein set forth (or implied) is intended to confer any claim, cause of action, remedy, defense, legal justification, indemnity, contribution claim, set-off, or other right whatsoever upon or otherwise inure to the benefit of any Contractor, Architect, subcontractor, worker, supplier, mechanic, architect, insurer, surety, guest, member of the public, or other third parties having dealings with either of the parties hereto or involved, in any manner, in the Project.

(f) Assignment; Encumbrance or Pledge. Neither this Agreement nor any rights or duties hereunder nor any benefits derived herefrom may be assigned, delegated, pledged or encumbered to any other person or entity by either party hereto without the express written consent of the other, which consent may be withheld by either party in the exercise of its absolute discretion, except that Owner may assign its rights under this Agreement to the Trustee and the Bond Insurer pursuant to the Indenture as security in connection with the financing described in Section 3 above.

(g) Notices. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to, or delivered to either party hereto by the other party, shall be in writing and shall be deemed duly served, given, or delivered when personally delivered

to the party to whom it is addressed or in lieu of such personal service, three (3) days after it is deposited in the United States mail, first-class postage prepaid, certified or registered, return receipt requested, addressed as follows, or sent via facsimile transmission with received invoice followed by a "hard copy" mailed, regular mail, within one (1) business day to the fax number listed as follows:

Owner:

Developer:

Either party may change its address for the purposes of this section by giving written notice of such change to the other party in the manner provided in this Section.

A copy of all notices, plans and specifications, change orders, invoices, documents or other agreements required to be delivered by one party to the other pursuant to this Agreement shall be simultaneously sent to Tenant and Bond Insurer at their addresses set forth below and Tenant shall have the right, but not the obligation, to attend all meetings and participate in all decisions to protect its leasehold interest under the Lease.

Tenant:

KING COUNTY

Property Services Division
500 King County Administration Building.
500 Fourth Avenue
Seattle, Washington 98104
Fax: 206-205-5070

Project Manager, Facilities Management Division
Rm. 320 King County Admin. Bldg.
500 4th Avenue
Seattle, Washington 98104
Fax: 206-205-5695

Bond Insurer:

[To be provided if applicable.]

Attn: _____

Facsimile: _____

(h) Entire Agreement. This Agreement (and the exhibits referred to herein) constitute the entire agreement between the parties with respect to the subject matter hereof and may be amended only in writing signed by both parties.

(i) Time is of the Essence. Time is of the essence of this Agreement.

(j) Employees of Developer. Developer is acting under this Agreement as an independent contractor and nothing herein contained, or any acts of Developer or Owner, nor any other circumstances, shall be construed to establish Developer as an agent of Owner. Developer shall be responsible for each of Developer's employees or other persons performing services to be performed by Developer hereunder and for determining the manner and time of performance of all acts to be performed by Developer hereunder. Developer shall maintain all required industrial and worker's compensation insurance for all employees of Developer and shall cause all Contractors,

Architect and all design professionals and other persons, firms and corporations employed to perform services in connection with the Project to provide worker's compensation and similar insurance with respect to their respective employees.

(k) Exhibits. The Exhibits to this Agreement are:

<u>Exhibit</u>	<u>Description</u>	<u>Partial Section Reference</u>
A	Legal Description of Building Land	Recitals
B	Project Lease Agreement	Recitals; Section 1
C	Base Shell and Core Building	Section 1
D	Project Budget	Sections 1, 4(c)
E	List of Preliminary Plans and Specifications	Section 1
F	Project Schedule	Sections 1, 6(d)
G	Tenant Improvement Plans Delivery Date Schedule	Sections 2(b), 6(c)
H	Dispute Resolution Mediation	Section 24
I	List of Additional Warranties	Section 7(h)

DATED at Seattle, Washington the day and year first above written.

OWNER: _____,
a Washington nonprofit corporation

By: _____

Its: _____

DEVELOPER: _____,

By: _____

Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF BUILDING LAND

EXHIBIT B

PROJECT LEASE AGREEMENT

EXHIBIT C
BASE SHELL AND CORE BUILDING

EXHIBIT D
PROJECT BUDGET

EXHIBIT E

SCHEDULE OF PRELIMINARY PLANS AND OUTLINE SPECIFICATIONS

EXHIBIT F

PROJECT SCHEDULE

EXHIBIT G

TENANT IMPROVEMENT PLANS DELIVERY DATES

EXHIBIT H**DISPUTE RESOLUTION PROCEDURE**

Owner and Developer shall act in good faith and deal fairly in performing their respective duties under this Agreement in order to accomplish their mutual objectives and avoid disputes. If a dispute arises with respect to design or construction of the Project, the parties agree to utilize the dispute resolution process contained herein, which will be non-binding but a condition precedent to having said dispute decided in court by a judge or jury.

1. Mediation. Pursuant to Section 24 of this Agreement, in the event a dispute arises between Developer and Owner with respect to design and/or construction of the Project the parties shall proceed in good faith to resolve such dispute as expeditiously as possible and shall cooperate so that the progress of the design and construction of the Project is not delayed. If, however, the parties are unable to resolve the dispute within three (3) business days, either party may refer the dispute to the Mediator named below.

1.1 Mediator. For any dispute which cannot be resolved by the parties, the mediator hereunder ("Mediator") shall be _____, or in the event he is unable or unwilling to act as such independent mediator, a mediator whom Owner and Developer have mutually designated to resolve such dispute. The Mediator is to act impartially and independently in the consideration of facts and conditions surrounding any dispute presented by Developer and Owner; however, the Mediator's recommendations concerning any such dispute are advisory only. The Mediator's recommendations shall be based on the pertinent provisions of this Agreement, and the facts and circumstances involved in the dispute. The Mediator's recommendations shall be furnished in writing to the parties.

1.2 Developer Responsibility. Developer shall furnish the Mediator one copy of all documents it might have, other than those furnished by the Owner, which are pertinent to the performance of the Mediator's duties hereunder.

1.3 Owner Responsibility. Owner shall furnish the Mediator one copy of all Contract Documents, including but not limited to the Building Design Guidelines, applicable contracts, interpretative reports, progress schedule and updates, monthly progress reports, and other documents pertinent to the performance of this Agreement and necessary to the performance of the Mediator's duties hereunder.

1.4 Term. Following execution of this Agreement, the Mediator shall have authority to act hereunder upon written request from either Owner or Developer and such authority shall terminate upon Final Acceptance, after Final Payment has been made.

1.5 Payment. The fees charged by the Mediator shall be shared equally by the parties. The Mediator's compensation shall include compensation for all materials, supplies, travel, office assistance and support and incidentals necessary to provide the services described herein. Payment for services rendered by the Mediator will be at the Mediator's standard hourly rate as approved by Owner and Developer prior to commencement of the dispute resolution proceeding.

1.6 *Legal Relationship.* The Mediator, in the performance of the duties described herein, is acting in the capacity of an independent agent and not as an employee of either Developer or Owner. The Mediator is absolved of any personal or professional liability arising from the recommendations made hereunder, unless due to gross negligence or willful malfeasance.

EXHIBIT I

LIST OF ADDITIONAL WARRANTIES